Renewable Energy (Electricity) Act 2000

No. 174, 2000

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About this compilation

This compilation

This is a compilation of the *Renewable Energy (Electricity) Act 2000* that shows the text of the law as amended and in force on 1 September 2021 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act for the establishment and administration of a scheme to encourage additional electricity generation from renewable energy sources, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Renewable Energy (Electricity) Act 2000.*

2 Commencement

This Act commences 28 days after the day on which it receives the Royal Assent.

3 Object/outline

The objects of this Act are:

(a) to encourage the additional generation of electricity from renewable sources; and

(b) to reduce emissions of greenhouse gases in the electricity sector; and

(c) to ensure that renewable energy sources are ecologically sustainable.

This is done through the issuing of certificates for the generation of electricity using eligible renewable energy sources and requiring certain purchasers (called ***liable entities***) to surrender a specified number of certificates for the electricity that they acquire during a year.

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Where a liable entity does not have enough certificates to surrender, the liable entity will have to pay renewable energy shortfall charge.

An exemption relating to one or more emissions-intensive trade-exposed activities may be taken into account in working out a liable entity's renewable energy certificate shortfall for a year. If it is, it will reduce the renewable energy shortfall charge otherwise payable.

4 Years to which this Act applies

This Act applies to the year commencing on 1 January 2001 and to all subsequent years. However, no certificates can be created, and no liability arises, in respect of electricity generated on or after 1 January 2031.

5 Definitions

(1) In this Act, unless the contrary intention appears:

1997 eligible renewable power baseline has the meaning given by section 14.

2008 WCMG limit has the meaning given by section 14.

accredited power station means a power station accredited under Division 3 of Part 2.

additional surrender notice has the meaning given by section 45C.

AEMO has the same meaning as in the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia.

Agriculture Department means the Department responsible for administering the *Primary Industries Levies and Charges Collection Act 1991*.

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air source heat pump water heater means a device that uses a vapour compression cycle incorporating a compressor, an evaporator that collects energy from the latent and sensible heat of the atmosphere and a condenser that delivers heat either directly or indirectly to a hot water storage container.

arrangement means:

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct.

assessment year's reduced acquisitions has the meaning given by section 38AA.

Australia, when used in a geographical sense, includes all the external Territories.

authorised Commonwealth contractor means a person who:

(a) provides, or proposes to provide, services to the Commonwealth under a contract; and

(b) is authorised, in writing, by the Regulator for the purposes of this definition.

carried forward shortfall has the meaning given by subsection 36(2).

carried forward surplus has the meaning given by section 38.

certificate means a renewable energy certificate.

civil penalty order has the meaning given by subsection 154B(2).

civil penalty provision means a provision declared by this Act to be a civil penalty provision.

clearing house has the meaning given by section 30J.

clearing house price has the meaning given by section 30LA.

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clearing house transfer list has the meaning given by subsection 30L(2).

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

CSC (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

ecologically sustainable means that an action is consistent with the following principles of ecologically sustainable development:

(a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

(b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

(c) the principle of inter-generational equity, which is that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;

(e) improved valuation, pricing and incentive mechanisms should be promoted.

electricity generation return has the meaning given by section 20.

electronic signature of a person means the person's unique identification in an electronic form that is approved by the Regulator under subsection (3).

eligible energy sources means:

(a) eligible renewable energy sources; or

(b) eligible WCMG.

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eligible renewable energy source has the meaning given by section 17.

eligible WCMG has the meaning given by section 17A.

emissions-intensive trade-exposed activity means an activity prescribed by regulations made for the purposes of this definition.

energy acquisition statement has the meaning given by section 44.

engage in conduct means:

(a) do an act; or

(b) omit to do an act.

executive officer of a body corporate means:

(a) a director of the body corporate; or

(b) the chief executive officer (however described) of the body corporate; or

(c) the chief financial officer (however described) of the body corporate; or

(d) the secretary of the body corporate.

exemption, in relation to a liable entity, means an exemption for a year, calculated under section 38B, that is used in working out the entity's large-scale generation shortfall or small-scale technology shortfall for the year.

exemption certificate means a certificate issued under section 46B.

Federal Court means the Federal Court of Australia.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

first quarter has the meaning given by section 38AA.

fourth quarter has the meaning given by section 38AA.

general interest charge rate, for a day, is the rate that is the general interest charge rate for that day for the purposes of the *Taxation Administration Act 1953*.

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government body means the Commonwealth, a State, a Territory or an authority of the Commonwealth or of a State or Territory.

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (including as provided by section 177-1 of that Act).

Note: Section 177-1 of the *A New Tax System (Goods and Services Tax) Act 1999* provides for the Commonwealth's notional liability to pay GST.

GST inclusive clearing house price has the meaning given by section 30LA.

GWh means gigawatt hour.

interest charge means the charge payable under section 70.

kW means kilowatt.

large-scale generation certificate means a certificate created under Subdivision A of Division 4 of Part 2.

Note: These certificates relate to generation of electricity by accredited power stations.

large-scale generation shortfall has the meaning given by section 38.

large-scale generation shortfall charge has the meaning given by section 36.

large-scale generation shortfall statement has the meaning given by section 46.

liable entity has the meaning given by section 35.

monitoring warrant means a warrant issued under section 125.

MW means megawatt.

MWh means megawatt hour.

National Electricity Rules means the National Electricity Rules, as in force from time to time, made under the National Electricity

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Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia.

nominated person, for an accredited power station, means:

(a) if no approvals have been given under section 30B in relation to the power station—the person who made the application for accreditation; or

(b) if one or more approvals have been given under that section in relation to the power station—the last person so approved.

objection decision has the meaning given by section 58.

occupier, in relation to premises, includes a person present at the premises who is in apparent control of the premises.

offence against this Act includes:

(a) an offence against the regulations; and

(b) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act or the regulations.

official of the Regulator has the same meaning as in the *Clean Energy Regulator Act 2011*.

outstanding renewable energy shortfall charge related liability of a person at a particular time means a renewable energy shortfall charge related liability of the person:

(a) that has arisen at or before that time (whether or not it is due and payable at that time); and

(b) an amount of which has not been paid before that time.

penalty charge means the charge payable under Part 9.

premises includes the following:

(a) a structure, building or vehicle;

(b) a place (whether enclosed or built on or not);

(c) a part of a thing referred to in paragraph (a) or (b).

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previous year's reduced acquisitions has the meaning given by section 38AA.

Note: See also sections 38AF, 38AG and 38AH.

produce includes permit access to.

quarter has the meaning given by section 38AA.

quarterly shortfall has the meaning given by section 38AE.

quarterly surplus has the meaning given by section 38AE.

registered person means a person registered under Division 2 of Part 2.

register of accredited power stations has the meaning given by section 138.

register of applications for accredited power stations has the meaning given by section 141A.

register of large-scale generation certificates has the meaning given by section 140.

register of registered persons has the meaning given by section 136.

register of small-scale technology certificates has the meaning given by section 141AA.

registration number has the meaning given by section 12.

Regulator means the Clean Energy Regulator.

relevant acquisition has the meaning given by section 31.

renewable energy certificate means a large-scale generation certificate or a small-scale technology certificate.

renewable energy shortfall charge means large-scale generation shortfall charge or small-scale technology shortfall charge.

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renewable energy shortfall charge related liability means a pecuniary liability to the Commonwealth (including a liability the amount of which is not yet due and payable) being:

(a) renewable energy shortfall charge; or

(b) interest charge; or

(c) penalty charge.

renewable energy shortfall statement means a large-scale generation shortfall statement or a small-scale technology shortfall statement.

renewable power percentage means the percentage prescribed under section 39.

required GWh of renewable source electricity has the meaning given by section 40.

required large-scale renewable energy has the meaning given by section 38.

required surrender amount has the meaning given by section 38AE.

second quarter has the meaning given by section 38AA.

senior employee, in relation to an authorised Commonwealth contractor, means an employee of the contractor, where the skills and responsibilities that are expected of the employee are equivalent to, or exceed, the skills and responsibilities expected of at least one of the senior officers of the Regulator.

senior officer of the Regulator means a person who:

(a) is a member of the staff of the Regulator; and

(b) either:

(i) is an SES employee or acting SES employee; or

(ii) holds or performs the duties of an Executive Level 2 position or an equivalent position.

small generation unit means a device that generates electricity that is specified by the regulations to be a small generation unit.

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small-scale technology certificate means a certificate created under Subdivision B or BA of Division 4 of Part 2 or under section 30P.

Note 1: Certificates created under Subdivision B or BA of Division 4 of Part 2 relate to the installation of solar water heaters and small generation units.

Note 2: Certificates created under section 30P are created by the Regulator for purchase through the clearing house.

small-scale technology percentage has the meaning given by section 40A.

small-scale technology shortfall has the meaning given by section 38AD.

small-scale technology shortfall charge has the meaning given by section 38AB.

small-scale technology shortfall statement has the meaning given by section 46.

solar water heater means a device that heats water using solar energy that satisfies any conditions set out in the regulations.

staff of the Regulator has the same meaning as in the *Clean Energy Regulator Act 2011*.

stakeholder, in relation to an accredited power station, means:

(a) a person who operates the power station (whether alone or together with one or more other persons); or

(b) a person who owns all, or a part, of the power station (whether alone or together with one or more other persons).

surrendered amount has the meaning given by section 38AE.

surrender instrument has the meaning given by subsection 45(1).

surrender period has the meaning given by section 38AA.

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taxable supply has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (including as provided by section 177-1 of that Act).

Note: Section 177-1 of the *A New Tax System (Goods and Services Tax) Act 1999* provides for the Commonwealth's notional liability to pay GST.

third quarter has the meaning given by section 38AA.

warrant premises, in relation to a monitoring warrant, means the premises to which the warrant relates.

(2) For the purposes of this Act, electricity is taken to be a good that can be acquired.

(3) The Regulator may, in writing, approve an electronic form for the purposes of the definition of ***electronic signature*** in subsection (1).

6 Act binds Crown

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

7 Application to the external Territories

This Act extends to every external Territory.

7A Tax deductibility

To avoid doubt, a charge or penalty under this Act is not tax deductible for the purposes of any law dealing with income tax.

7B Constitutional basis

To the extent that this Act applies in relation to a constitutional corporation, the operation of this Act is based on the following legislative powers:

(a) the legislative power that the Commonwealth Parliament has under paragraph 51(xx) of the Constitution;

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(b) any other legislative power that the Commonwealth Parliament has under the Constitution.

7C Immunity from State laws

A constitutional corporation need not comply with any law of a State that substantially corresponds to this Act.

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Part 2—Renewable energy certificates

Division 1—Preliminary

8 Overview of Part

This Part provides for the creation, trading and extinguishing of renewable energy certificates.

There are 2 types of renewable energy certificates:

(a) large-scale generation certificates, which are created in relation to the generation of electricity by accredited power stations; and

(b) small-scale technology certificates, which are created in relation to the installation of solar water heaters and small generation units.

The certificates are used to avoid or reduce the amount of renewable energy shortfall charge that liable entities who acquire electricity have to pay. The liable entities will generally acquire the certificates by purchasing them.

The certificates are created by people who generate power from accredited power stations using eligible energy sources where the amount generated exceeds the relevant 1997 eligible renewable power base line. The certificates are also created for approved installations of solar water heaters or small generation units.

A person needs to be registered under Division 2 before they can create a certificate.

Division 2A provides for provisional accreditation of power stations.

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Section 8

A power station needs to be accredited under Division 3 before a certificate can be issued in relation to power generated by it.

A certificate must be registered when it is created. Every transfer of the certificate must also be registered.

When a certificate has been surrendered by a liable party, it ceases to be valid.

See also Part 2A (clearing house for small-scale technology certificates), which:

(a) provides a clearing house facility for the transfer of small-scale technology certificates; and

(b) gives the Regulator a limited power to create or cancel small-scale technology certificates.

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Division 2—Registration of persons

9 Who can register

(1) Any person may be registered under this Act.

(2) However, if a person's registration has been suspended under section 30 or 30A, the person cannot be registered during the period of the suspension.

10 Applying for registration

(1) A person may apply to the Regulator to be registered.

(2) The application must:
  (a) be made in a form and manner required by the Regulator; and
  (b) contain any information required by the Regulator; and
  (c) be accompanied by any documents required by the Regulator; and
  (d) be accompanied by the fee (if any) prescribed by the regulations for the making of applications for registration.

11 Regulator to refuse or approve application

(1) If the Regulator receives an application that is properly made under section 10, the Regulator must:
  (a) approve the application; or
  (b) refuse the application.

(2) The Regulator may refuse the application if the Regulator is satisfied that the applicant is not a fit and proper person.

(2A) For the purposes of subsection (2), in determining whether the applicant is a fit and proper person, the Regulator:
  (a) must have regard to the matters specified in regulations made for the purposes of this subsection; and

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(b) may have regard to such other matters (if any) as the Regulator considers relevant.

(3) The Regulator must refuse the application if the Regulator is satisfied that the applicant has previously been a registered person.

12 Regulator to allocate registration numbers

If the Regulator approves an application, the Regulator must allocate the applicant a unique registration number and advise the applicant of the number.

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Division 2A—Provisional accreditation of power stations

12A Application for provisional accreditation of a power station

(1) A registered person may apply to the Regulator for provisional accreditation of the proposed components of an electricity generation system that the person considers would, if assembled, be a single power station.

Form of application

(2) The application must:

(a) be made in a form and manner required by the Regulator; and

(b) specify the proposed components; and

(c) list the eligible energy sources from which power is intended to be generated; and

(d) contain any other information required by the Regulator; and

(e) be accompanied by any documents required by the Regulator; and

(f) be accompanied by the fee (if any) prescribed by the regulations for the making of applications for provisional accreditation.

12B Regulator may give provisional accreditation

(1) If:

(a) the Regulator receives an application that is properly made under section 12A (about an application for provisional accreditation of a power station); and

(b) the Regulator is satisfied that some or all of the proposed components of the system would, if assembled, be a power station for the purposes of this Act;

the Regulator must, by written notice given to the applicant:

(c) specify which of those proposed components (the ***provisional components***) would, if assembled, be a power station for the purposes of this Act; and

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(d) specify that, if an application is properly made under section 13 in relation to the power station:

(i) the Regulator will determine that the components specified in that application are taken to be a power station for the purposes of this Act if the Regulator is satisfied that they are not materially different from the provisional components; and

(ii) the power station will be eligible for accreditation if subsection 14(2) is satisfied.

Refusal

(2) If:

(a) the Regulator receives an application that is properly made under section 12A; and

(b) the Regulator is not satisfied that some or all of the proposed components of the system would, if assembled, be a power station for the purposes of this Act;

the Regulator must, by written notice given to the applicant, refuse the application.

Regulations

(3) Regulations made for the purposes of section 14, in relation to determining the components of a power station, apply in a corresponding way to this section.

12C Time limit for deciding applications

(1) The Regulator must decide an application that is properly made under section 12A within:

(a) the period of 6 weeks beginning on the day the Regulator received the application; or

(b) if, before the end of that period, the Regulator and applicant agree to a longer period—that longer period.

(2) If the Regulator has not decided the application within the period applicable under subsection (1), the Regulator is taken, at the end

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of that period, to have made a decision under section 12B refusing the application.

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Division 3—Accreditation of eligible power stations

13 Application for accreditation

(1) A registered person may apply to the Regulator for accreditation, as an accredited power station, of the components of an electricity generation system that the person considers are a single power station if the person:

(a) operates those components (whether alone or together with one or more other persons); or

(b) owns all, or a part, of those components (whether alone or together with one or more other persons).

(2) The application must:

(a) be made in a form and manner required by the Regulator; and

(b) specify those components of the system that the applicant considers are a single power station; and

(baa) specify each other person (if any) who:

(i) operates those components (whether alone or together with one or more other persons); or

(ii) owns all, or a part, of those components (whether alone or together with one or more other persons); and

(ba) list:

(i) the eligible energy sources from which power is intended to be generated; and

(ii) the estimated average annual output of each source listed under subparagraph (i); and

(c) contain any other information required by the Regulator; and

(d) be accompanied by any documents required by the Regulator; and

(e) be accompanied by the fee (if any) prescribed by the regulations for the making of applications for accreditation; and

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(f) be accompanied by a statement in writing from each other person (if any) specified under paragraph (baa) indicating that the other person agrees to the making of the application.

(2A) An application that lists eligible WCMG as an eligible energy source from which power is intended to be generated cannot be made after the day prescribed by the regulations for the purpose of this subsection.

(3) The Regulator must enter details of the application on the register of applications for accredited power stations.

14 Regulator to determine certain matters

(1) If the Regulator receives an application that is properly made under section 13, the Regulator must:

(a) determine which components of the system are to be taken to be a power station for the purposes of this Act; and

(b) determine whether the power station is eligible for accreditation.

Note: A determination under paragraph (a) may be varied: see Division 10.

(1A) If:

(a) the Regulator gave a person a notice under subsection 12B(1) in relation to the power station; and

(b) the Regulator is satisfied that the components specified in the application under section 13 are not materially different from the components specified under subsection 12B(1);

the Regulator must determine, under paragraph (1)(a) of this section, that the components specified in the application under section 13 are taken to be a power station for the purposes of this Act.

(2) A power station is eligible for accreditation if:

(a) some or all of the power generated by the power station is generated from an eligible energy source; and

(b) the power station satisfies any prescribed requirements.

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(2A) However, a power station is not eligible for accreditation if the Regulator is satisfied that a previous determination under paragraph (1)(a) should be varied to include the components of the system specified in the application for accreditation.

(3) If the Regulator determines that the power station is eligible for accreditation, the Regulator must also determine:

(a) the ***1997 eligible renewable power baseline*** for the power station; and

(b) any energy sources used by the power station that are not eligible energy sources; and

(c) if some or all of the power generated by the power station is generated from eligible WCMG—the ***2008 WCMG limit*** for the power station.

Note: The 1997 eligible renewable power baseline or the 2008 WCMG limit for a power station may be varied: see Division 12.

(4) The Regulator must determine the matters specified in paragraphs (1)(a), (3)(a) and (3)(c) in accordance with guidelines prescribed in the regulations.

(5) To avoid doubt:

(a) the regulations may provide that a power station includes components that are integral to the operation of the power station or to the generation of electricity by the power station; and

(b) the 1997 eligible renewable power baseline for a power station may be nil.

15 Regulator to approve or refuse application

If the Regulator determines that a power station is eligible for accreditation, the Regulator must approve the application. In any other case, the Regulator must refuse the application.

Note: The accreditation of an accredited power station may be suspended: see Division 11.

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15A Time limit for deciding applications

General rule

(1) Subject to subsection (3), the Regulator must decide an application that is properly made under section 13 within:

(a) the period of 6 weeks beginning on the day the Regulator received the application; or

(b) if, before the end of that period, the Regulator and applicant agree to a longer period—that longer period.

(2) If the Regulator has not decided the application within the period applicable under subsection (1), the Regulator is taken, at the end of that period, to have made a decision under section 15 refusing the application.

Applications that list eligible WCMG as an eligible energy source

(3) If an application that is properly made under section 13 lists eligible WCMG as an eligible energy source from which power is intended to be generated, the Regulator must decide the application before the end of the period of 6 months starting on the day referred to in subsection 13(2A).

(4) If the Regulator does not decide the application on or before that day, the Regulator is taken, on the following day, to have made a decision under section 15 refusing the application.

15B Nominated person for power station

If the Regulator approves an application, the applicant becomes the nominated person for the accredited power station.

Note: The nominated person for the power station is able to create certificates for electricity generated by the power station: see section 18. The nominated person may change: see Division 9.

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16 Regulator to allocate identification codes

If the Regulator approves an application, the Regulator must allocate the power station a unique identification code and advise the applicant of the code.

17 What is an *eligible renewable energy source*?

(1) The following energy sources are ***eligible renewable energy sources***:

(a) hydro;
(b) wave;
(c) tide;
(d) ocean;
(e) wind;
(f) solar;
(g) geothermal-aquifer;
(h) hot dry rock;
(i) energy crops;
(j) wood waste;
(k) agricultural waste;
(l) waste from processing of agricultural products;
(m) food waste;
(n) food processing waste;
(o) bagasse;
(p) black liquor;
(q) biomass-based components of municipal solid waste;
(r) landfill gas;
(s) sewage gas and biomass-based components of sewage;
(t) any other energy source prescribed by the regulations.

(2) Despite subsection (1), the following energy sources are not eligible renewable energy sources:

(a) fossil fuels;
(b) materials or waste products derived from fossil fuels.

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Regulations

(3) For the purposes of this Act, the regulations may provide that an energy source referred to in subsection (1) or (2) has the meaning prescribed by the regulations.

(4) For the purposes of this Act, the regulations may make provision for and in relation to limiting the meaning of an energy source referred to in subsection (1).

(5) For the purposes of this Act, the regulations may make provision for and in relation to extending the meaning of an energy source referred to in subsection (2).

17A What is *eligible WCMG*?

(1) Waste coal mine gas is ***eligible WCMG*** if:

(a) the waste coal mine gas is used in the generation of electricity by a power station in the period:

(i) starting on the day prescribed by the regulations for the purpose of this subparagraph; and

(ii) ending on 31 December 2020; and

(b) either:

(i) the power station was generating electricity from waste coal mine gas at any time in May 2009; or

(ii) if subparagraph (i) does not apply—the power station had generated electricity from waste coal mine gas before May 2009, and, as at the end of May 2009, the owner or operator of the power station has a plan for the power station to resume generating electricity from waste coal mine gas before the end of September 2009.

(2) For the purposes of this Act, the regulations may provide that waste coal mine gas has the meaning prescribed by the regulations.

(3) For the purposes of this Act, the regulations may prescribe limitations (in addition to those in subsection (1)) that apply in order for waste coal mine gas to be ***eligible WCMG***.

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(4) If the regulations do not prescribe a day for the purpose of subparagraph (1)(a)(i), no waste coal mine gas is eligible WCMG.

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Division 4—Creation of renewable energy certificates

Subdivision AA—Preliminary

17B Overview of Division

This Division deals with the creation of certificates, known as renewable energy certificates.

There are 2 types of renewable energy certificates:

(a) large-scale generation certificates, which are created in relation to the generation of electricity by accredited power stations (see Subdivision A); and

(b) small-scale technology certificates, which are created in relation to the installation of solar water heaters and small generation units (see Subdivisions B and BA).

Small-scale technology certificates can also be created by the Regulator under Part 2A (clearing house for small-scale technology certificates).

Subdivision B requires people who create certificates under Subdivision B or BA to submit returns relating to the creation of the certificates.

Subdivision C contains offence and civil penalty provisions relating to the improper creation of certificates.

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Subdivision A—Large-scale generation certificates for accredited power stations

17C Large-scale generation certificates

Certificates created under this Subdivision are large-scale generation certificates.

18 Creating certificates for additional renewable electricity

(1) The nominated person for an accredited power station may create a certificate for each whole MWh of electricity generated by the power station during a year that is in excess of the power station's 1997 eligible renewable power baseline.

(1A) A certificate must not be created in respect of a whole MWh of electricity generated partly in 1 year and partly in the following year.

(2) If the amount of electricity generated by an accredited power station during a year that is in excess of the power station's 1997 eligible renewable power baseline is less than 1 MWh but greater than or equal to 0.5 MWh, the nominated person for the power station may create 1 certificate in respect of the electricity generated during the year.

(3) The amount of electricity generated by an accredited power station is to be worked out in accordance with the regulations.

(4) Electricity is to be excluded from all calculations under this section:

(a) to the extent that the electricity was generated using any energy sources that are not eligible energy sources; or

(b) to the extent that the electricity was generated during any period of suspension of the accreditation of the accredited power station under section 30D or 30E; or

(c) to the extent that the electricity was generated from eligible WCMG and is in excess of the accredited power station's 2008 WCMG limit.

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(5) The nominated person for an accredited power station must not create any certificates during any period of suspension of the person's registration under section 30 or 30A.

19 When certificates may be created

A certificate may be created at any time after the generation of the final part of the electricity in relation to which it is created and before:

(a) the end of the year after the year of generation; or

(b) any later day allowed by the Regulator.

Note: For offences and civil penalties related to the creation of certificates, see Subdivision C.

20 Electricity generation return

(1) The nominated person for an accredited power station must give an electricity generation return for a year to the Regulator on or before:

(a) 14 February in the following year; or

(b) any later day allowed by the Regulator.

(2) The return must include details of:

(a) the amount of electricity generated by the power station during the year; and

(b) the amount of that electricity that was generated using eligible energy sources; and

(c) the number of certificates created during the year in respect of the electricity generated by the power station during the year; and

(ca) the number of certificates created during the year in respect of any electricity generated by the power station during the previous year; and

(d) any other information specified by the regulations.

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20A Amending electricity generation returns

(1) The Regulator may amend an electricity generation return if the nominated person for the accredited power station concerned requests, in writing, an amendment within 12 months of the return being given.

(2) The Regulator may also amend an electricity generation return on his or her own initiative if the amendment is made within 4 years of the return being given.

(3) If the Regulator refuses to amend an electricity generation return upon a request by a nominated person for an accredited power station, the Regulator must notify the person accordingly.

Subdivision B—Small-scale technology certificates for solar water heaters

20B Small-scale technology certificates

Certificates created under this Subdivision are small-scale technology certificates.

21 When a certificate may be created

(1) If a solar water heater is installed on or after 1 April 2001, certificates may be created after the heater is installed.

Note: For offences and civil penalties related to the creation of certificates, see Subdivision C.

(1A) The regulations:

(a) may provide that certificates cannot be created in relation to a solar water heater unless particular conditions are satisfied in relation to the solar water heater or its installation; and

(b) without limiting paragraph (a), may:

(i) require information or documents to be given to the Regulator in relation to a solar water heater or its installation; and

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(ii) provide that information or documents required to be given to the Regulator must be verified by statutory declaration.

(2) The certificates may only be created within 12 months after the installation of the solar water heater.

(3) The regulations may make provision in relation to the time at which a solar water heater is taken to have been installed.

(4) If a solar water heater is an air source heat pump water heater, certificates may only be created for the installation of such an air source heat pump water heater if it has a volumetric capacity of not more than 425 litres.

22 How many certificates may be created

(1) The number of certificates (each representing 1 MWh) that may be created for a particular installation of a solar water heater is to be determined in accordance with the regulations.

(2) Without limiting subsection (1), regulations made for the purpose of that subsection may:

(a) provide for the Regulator to determine the number of certificates that may be created for a particular installation of a solar water heater; and

(b) prescribe requirements to be complied with in relation to the making of such a determination, which may include a requirement that a determination is to be made in accordance with a legislative instrument made by the Regulator; and

(c) prescribe other matters relating to such a determination or legislative instrument.

23 Who may create a certificate

(1) The owner of the solar water heater at the time that it is installed is entitled to create the certificate or certificates that relate to the solar water heater.

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(2) However, the owner may, by written notice, assign the right to create the certificate or certificates to another person. If the owner does this, the owner is not entitled to create the certificate or certificates but the person to whom the right was assigned is entitled to create the certificate or certificates.

(3) Despite subsections (1) and (2), a person who is not registered may not create a certificate that relates to the solar water heater.

23AA Register of solar water heaters

The regulations may make provision for and in relation to the Regulator keeping a Register of solar water heaters.

Subdivision BA—Small-scale technology certificates for small generation units

23AB Small-scale technology certificates

Certificates created under this Subdivision are small-scale technology certificates.

23A When a certificate may be created

(1) If a small generation unit is installed on or after 1 April 2001, certificates may be created after the small generation unit is installed.

Note: For offences and civil penalties related to the creation of certificates, see Subdivision C.

(1A) The regulations:

(a) may provide that certificates cannot be created in relation to a small generation unit unless particular conditions are satisfied in relation to the small generation unit or its installation; and

(b) without limiting paragraph (a), may:

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(i) require information or documents to be given to the Regulator in relation to a small generation unit or its installation; and

(ii) provide that information or documents required to be given to the Regulator must be verified by statutory declaration.

(1B) To avoid doubt, regulations under subsection (1A) may impose conditions to be complied with in relation to a small generation unit after its installation.

Note: For example, conditions may be imposed so that certificates cannot be created in relation to a small generation unit unless the unit remains functional.

(2) The regulations may make provision in relation to the time at which a small generation unit is taken to have been installed.

(3) The regulations may make provision in relation to:

(a) the time when a right to create certificates in relation to a small generation unit arises; and

(b) the period within which certificates may be created in relation to a small generation unit.

23AAA Regulations to establish scheme for inspection of new installations of small generation units

(1) The regulations must establish a scheme for the inspection of the installation of small generation units for which certificates have been created.

(2) Without limiting subsection (1), regulations made under that subsection must provide, for small generation units installed after the commencement of this section:

(a) that each year a statistically significant selection of small generation units that were installed during that year must be inspected for conformance with Australian standards and any other standards or requirements relevant to the creation of certificates in relation to that small generation unit;

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(b) that an inspection of a small generation unit is to be carried out by a person or organisation who:

(i) is independent of the person or organisation who designed and/or installed that small generation unit; and

(ii) does not have a conflict of interest in relation to that small generation unit or administration of the matters being inspected;

(c) for the transfer of information, about any failures to comply with standards or other requirements relevant to the creation of certificates in relation to small generation units, to State, Territory or Commonwealth bodies with responsibility for the enforcement and administration of those standards or requirements.

(3) A report of an inspection carried out in accordance with regulations made under subsection (1) may set out:

(a) conclusions; or

(b) recommendations; or

(c) other material;

that is or are relevant to the performance of the functions, or the exercise of the powers, conferred on the Regulator by section 26.

(4) Subsection (3) does not limit the matters that may be set out in a report.

Note: Inspections carried out in accordance with regulations made under subsection (1):

(a) may be relevant in determining whether a certificate is eligible for registration under section 26 (see subsection 26(3AA)); and

(b) provide an indication of the effectiveness of the process for the registration of certificates.

23B How many certificates may be created

Number of certificates

(1) The number of certificates (subject to subsection (2), each representing 1 MWh) that may be created in relation to a small

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generation unit is to be determined in accordance with the regulations.

Regulations may multiply number of certificates

(2) The regulations may provide that, in the circumstances specified by the regulations, 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 an item in the following table is to be multiplied by a number that does not exceed the number specified in column 2 of the item.

Note: The regulations may make provision in relation to the time at which a small generation unit is taken to have been installed (see subsection 23A(2)).

Multiplier for certificates for small generation units

Item	Column 1 Period	Column 2 Number
1	9 June 2009 to 30 June 2010	5
2	1 July 2010 to 30 June 2011	5
3	1 July 2011 to 30 June 2012	5
4	1 July 2012 to 30 June 2013	4
5	1 July 2013 to 30 June 2014	3
6	1 July 2014 to 30 June 2015	2

(3) However, subject to subsections (3A) and (3C), the regulations may provide for a number of certificates to be multiplied only if the certificates relate to not more than the first 3kW of the rated power output of the small generation unit.

(3A) However, in the case of an off-grid small generation unit, the regulations must provide for a number of certificates to be multiplied only if the certificates relate to the first 20kW of the rated power output of the unit.

(3B) In subsection (3A):

off-grid small generation unit means:

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(a) a small generation unit at least 1 kilometre from the nearest main-grid line; or

(b) in the case of a small generation unit less than 1 kilometre from a main-grid line—the owner has provided written evidence from the local network service provider that the total cost of connecting the unit to the main-grid is more than $30,000, making it uneconomic to connect the unit to the main-grid.

(3C) The regulations must provide that the number of certificates that may be created under subsection (3A) as a result of a multiplier in subsection (2) for a period specified in column 1 of an item in the following table must not exceed the number specified in column 2 of the item.

Maximum number of certificates created under subsection (3A)

Item	Column 1 Period	Column 2 Number
1	1 July 2010 to 30 June 2011	250,000
2	1 July 2011 to 30 June 2012	250,000
3	1 July 2012 to 30 June 2013	200,000
4	1 July 2013 to 30 June 2014	150,000
5	1 July 2014 to 30 June 2015	100,000

(4) For the purposes of this Act, a certificate created in accordance with the regulations as mentioned in subsection (2) has a value of 1 MWh (even though the certificate does not actually represent 1 MWh).

23C Who may create a certificate

(1) The owner of the small generation unit at the time that a right to create a certificate or certificates arises in relation to the small generation unit is entitled to create the certificate or certificates.

(2) However, the owner may, by written notice and in accordance with the regulations, assign the right to create the certificate or

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certificates to another person. If the owner does this, the owner is not entitled to create the certificate or certificates but the person to whom the right was assigned is entitled to create the certificate or certificates.

(3) Despite subsections (1) and (2), a person who is not registered may not create a certificate that relates to the small generation unit.

(4) Regulations made for the purposes of subsection (2) may make provision:
  (a) in relation to when the right may be assigned; and
  (b) in relation to the kind of persons to whom the right may be assigned.

(5) Subsection (4) does not limit the regulations that may be made for the purposes of subsection (2).

23D No other certificates to be created

A person must not create certificates under Subdivision A in respect of electricity generated by a small generation unit, unless an election is made under section 23E in relation to that unit.

23E Election to not create certificates under this Subdivision

(1) The owner of a qualifying small generation unit at the time that it is installed may give the Regulator a notice in writing electing that this Subdivision does not apply to the creation of certificates that relate to the unit.

Timing of election

(2) The owner must make the election within the period of 28 days beginning on the day the unit is installed and before any certificates are created under this Subdivision that relate to the unit.

Effect of election

(3) If an election is made, a person must not create certificates under this Subdivision that relate to the unit.

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Note: A person may be able to create certificates under Subdivision A that relate to the unit.

Election cannot be altered

(4) An election must not be varied or revoked.

Definition

(5) In this section:

qualifying small generation unit means a small generation unit of a kind prescribed by the regulations for the purposes of this section.

Subdivision BB—Solar water heater and small generation unit return

23F Solar water heater and small generation unit return

(1) If the sum of the number of certificates created by a person during a year under Subdivisions B and BA exceeds 250, the person must give a return for the year to the Regulator on or before:
  (a) 14 February in the following year; or
  (b) any later day allowed by the Regulator.

(2) The return must include details of:
  (a) the number of certificates the person created under each of those Subdivisions during the year; and
  (b) the number of certificates the person is entitled to create under Subdivision B because of rights assigned to the person under subsection 23(2) during the year; and
  (c) the number of certificates the person is entitled to create under Subdivision BA because of rights assigned to the person under subsection 23C(2) during the year; and
  (d) any other information specified by the regulations.

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Subdivision C—Improper creation of certificates

24 Improper creation of certificates—offences

(1) A person commits an offence if:

(a) the person creates a certificate; and

(b) the person is not entitled to create the certificate.

Penalty: 1 penalty unit.

(2) Subsection (1) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains general principles relating to penalties.

Note 2: For strict liability, see section 6.1 of the *Criminal Code*.

(3) A person commits an offence if:

(a) the person creates a certificate; and

(b) the person is not entitled to create the certificate.

Penalty: 5 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains general principles relating to penalties.

(4) To avoid doubt, a penalty may be imposed in respect of each certificate in respect of which a person commits an offence.

Example: An individual who commits an offence under subsection (1) by creating 20 certificates that the individual was not entitled to create would be subject to a maximum penalty of 20 penalty units. If the offence were under subsection (3), the individual would be subject to a maximum penalty of 100 units.

(5) In determining whether a person was not entitled to create a certificate, the fact that the certificate has been registered by the Regulator under section 26 is to be disregarded.

Note: This ensures that a person cannot raise as relevant evidence the fact that a certificate has been registered.

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24A Improper creation of certificates—civil penalty

(1) A person must not create a certificate if the person is not entitled to create the certificate.

Ancillary contraventions

(2) A person must not:

(a) aid, abet, counsel or procure a contravention of subsection (1); or

(b) induce, whether by threats or promises or otherwise, a contravention of subsection (1); or

(c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1); or

(d) conspire with others to effect a contravention of subsection (1).

Civil penalty provisions

(3) Subsections (1) and (2) are ***civil penalty provisions***.

Note: Division 1 of Part 15A provides for pecuniary penalties for breaches of civil penalty provisions.

24B False etc. information resulting in improper creation of certificates under Subdivision B or BA—civil penalty

(1) A person (the ***first person***) contravenes this subsection if:

(a) the person provides information to another person (the ***second person***) in relation to, or in relation to the installation of, a solar water heater or a small generation unit; and

(b) the information:

(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; and

(c) the second person relies on the information to create certificates under Subdivision B or BA in relation to the solar water heater or small generation unit; and

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(d) it could reasonably be expected that the second person would so rely on the information; and

(e) the second person's reliance on the information results in the second person creating certificates under that Subdivision, in relation to the solar water heater or small generation unit, that the second person is not entitled to create.

Ancillary contraventions

(2) A person must not:

(a) aid, abet, counsel or procure a contravention of subsection (1); or

(b) induce, whether by threats or promises or otherwise, a contravention of subsection (1); or

(c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1); or

(d) conspire with others to effect a contravention of subsection (1).

Civil penalty provisions

(3) Subsections (1) and (2) are ***civil penalty provisions***.

Note: Division 1 of Part 15A provides for pecuniary penalties for breaches of civil penalty provisions.

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Division 5—Form and registration of certificates

25 Form and content of large-scale generation certificates

(1) Large-scale generation certificates are to be created in an electronic form approved in writing by the Regulator.

(2) Each certificate is to contain:

(a) a unique identification code; and

(b) the electronic signature of the registered person who created the certificate; and

(c) the date on which the final part of the electricity in relation to which the certificate was created was generated; and

(ca) details of the eligible energy source or sources of that electricity; and

(d) the date on which the certificate was created.

(3) A certificate's unique identification code is to consist of the following in the following order:

(a) the registered person's registration number;

(b) the power station's identification code;

(c) the year;

(d) a number in an unbroken sequence, that is used for all certificates issued in respect of electricity generated by the power station in that year, that starts at one and has increments of one.

25A Form and content of small-scale technology certificates

(1) Small-scale technology certificates are to be created in an electronic form approved in writing by the Regulator.

(2) Each certificate is to contain:

(a) the registered person's registration number; and

(b) the year; and

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(c) a number in an unbroken sequence that is used for all certificates created in respect of the solar water heater or small generation unit concerned in that year and that starts at one and has increments of one; and

(d) the electronic signature of the registered person who created the certificate; and

(e) the date on which the solar water heater or small generation unit concerned was installed; and

(f) a statement that the certificate was created in relation to a solar water heater, or that it was created in relation to a small generation unit (as appropriate); and

(g) the date on which the certificate was created.

(3) This section does not apply in relation to a small-scale technology certificate created by the Regulator under section 30P.

26 Certificates must be registered

(1) A certificate is not valid until it has been registered by the Regulator.

(2) The Regulator must be advised of the creation of a certificate by electronic transmission in the manner determined, in writing, by the Regulator.

(3) When the Regulator is notified that a certificate has been created, the Regulator must determine whether the certificate is eligible for registration.

(3AA) In determining whether a certificate is eligible for registration, the Regulator must have regard to any relevant:

(a) conclusions; or

(b) recommendations; or

(c) other material;

set out in a report of an inspection carried out in accordance with regulations made under subsection 23AAA(1).

Note: Subsection 23AAA(1) deals with the inspection of the installation of small generation units.

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(3AB) Subsection (3AA) does not limit the matters to which regard may be had.

(3A) A certificate is not eligible for registration unless the Regulator has been paid the fee (if any) prescribed by the regulations for the registration of the certificate.

(3B) The amount of a fee prescribed under subsection (3A) must be reasonably related to the expenses incurred, or to be incurred, by the Commonwealth in connection with:

(a) the performance of the Regulator's functions, or the exercise of the Regulator's powers, under this section; and

(b) the carrying out of inspections in accordance with regulations made under subsection 23AAA(1), to the extent to which the inspections are relevant to the performance of the functions, or the exercise of the powers, conferred on the Regulator by this section; and

(c) the preparation of reports of inspections carried out in accordance with regulations made under subsection 23AAA(1), to the extent to which such reports set out:

(i) conclusions; or

(ii) recommendations; or

(iii) other material;

that is or are relevant to the performance of the functions, or the exercise of the powers, conferred on the Regulator by this section.

(3C) A fee prescribed under subsection (3A) must not be such as to amount to taxation.

(4) If the Regulator determines that a certificate is eligible for registration, the Regulator must create an entry for the certificate in the register of large-scale generation certificates or the register of small-scale technology certificates (as appropriate) and record the person who created the certificate as the owner of the certificate.

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(5) If the Regulator determines that a certificate is not eligible for registration, the Regulator must notify the person who created the certificate.

(6) The Regulator may at any time (whether before or after the registration of a certificate) require the person who created the certificate to provide to the Regulator a written statement containing such information as the Regulator requires in connection with the creation of the certificate. The person who created the certificate must provide the statement within the period (not being a period of less than 14 days) specified by the Regulator.

(7) This section does not apply in relation to a small-scale technology certificate created by the Regulator under section 30P.

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Division 6—Transfer of certificates

27 Certificates may be transferred

Certificates that have been registered under section 26 or subsection 30P(3) may be transferred to any person.

Note: Subsection 30P(3) deals with registration of small-scale technology certificates created by the Regulator for purchase through the clearing house.

28 Regulator to be notified

(1) The Regulator must be notified of each transfer of a certificate.

(2) The notification must be by electronic transmission in the manner determined, in writing, by the Regulator.

(2A) The notification must be accompanied by the fee (if any) prescribed by the regulations for the purposes of this subsection.

(3) When the Regulator is notified, the Regulator must alter the register of certificates to show the transferee as the owner of the certificate.

(4) This section does not apply in relation to a transfer of a small-scale technology certificate by or to the Regulator under subsection 30N(2) or 30P(4).

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Division 7—Retirement of certificates

28A Registered owner may surrender certificate

The registered owner of a certificate may surrender the certificate to the Regulator under this section.

Note 1: The name of the current registered owner of each certificate is in the register of large-scale generation certificates or the register of small-scale technology certificates (as appropriate).

Note 2: Certificates can also be surrendered:

(a) under Subdivision A of Division 1 of Part 5; or

(b) if they are large-scale generation certificates—under section 95.

29 Retirement of certificates

(1) Where a certificate is surrendered under section 28A, Subdivision A of Division 1 of Part 5, or section 95, the certificate ceases to be valid.

(2) When a certificate ceases to be valid, the Regulator must alter the entry relating to the certificate in the register of certificates to show that the certificate is no longer valid.

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Division 8—Suspension of registration

30 Suspension of registration—conviction of offence

(1) If a registered person has been convicted of an offence under subsection 24(3), the Regulator may suspend the person's registration for such period (not exceeding 2 years) as the Regulator considers appropriate in all of the circumstances.

(2) If a person whose registration has previously been suspended under subsection (1) is convicted of another offence under subsection 24(3), the Regulator may suspend the person's registration for such period (including permanently) as the Regulator considers appropriate in all of the circumstances.

30A Suspension of registration—other grounds

Regulator's belief that offence committed or civil penalty provision contravened

(1) The Regulator may, by written notice, suspend the registration of a registered person if the Regulator believes on reasonable grounds that the person has committed an offence against this Act or has contravened a civil penalty provision.

(2) The registration is suspended for such period (not exceeding 12 months) as the Regulator considers appropriate in all of the circumstances. That period must be specified in the notice.

Registration obtained improperly

(3) The Regulator may, by written notice, suspend the registration of a registered person if the registration was obtained improperly.

(4) The registration is suspended for such period (including permanently) as the Regulator considers appropriate in all of the circumstances. That period must be specified in the notice.

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Prescribed ground

(5) The Regulator may, by written notice, suspend the registration of a registered person if the Regulator is satisfied that the registered person is not a fit and proper person.

(5A) For the purposes of subsection (5), in determining whether the registered person is a fit and proper person, the Regulator:

(a) must have regard to the matters specified in regulations made for the purposes of this subsection; and

(b) may have regard to such other matters (if any) as the Regulator considers relevant.

(6) The registration is suspended for such period (including permanently) as the Regulator considers appropriate in all of the circumstances. That period must be specified in the notice.

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Division 9—Changing the nominated person for an accredited power station

30B Changing the nominated person for an accredited power station

(1) A registered person who is a stakeholder in relation to an accredited power station may apply to the Regulator for approval to become the nominated person for the power station.

Note: The nominated person is able to create certificates in respect of electricity generated by the power station: see section 18.

(2) The application must:

(a) be made in a form and manner required by the Regulator; and

(b) contain any information required by the Regulator; and

(c) be accompanied by any documents required by the Regulator; and

(d) be accompanied by the fee (if any) prescribed by the regulations for the making of such applications; and

(e) be accompanied by a statement in writing from each other stakeholder (if any) in relation to the power station indicating that the other stakeholder agrees to the making of the application.

(3) If the Regulator receives an application that is properly made, the Regulator must, by writing, approve the applicant as the nominated person for the power station.

(4) Otherwise, the Regulator must refuse to so approve the applicant and must notify the applicant accordingly.

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Division 10—Varying what constitutes a power station

30C Varying what constitutes a power station

(1) The Regulator may, by writing, vary a determination under paragraph 14(1)(a). The Regulator may do so only in relation to an accredited power station.

(2) The Regulator may do so on his or her own initiative or upon application by the nominated person for the accredited power station.

(3) The application must:
  (a) be made in a form and manner required by the Regulator; and
  (b) contain any information required by the Regulator; and
  (c) be accompanied by any documents required by the Regulator; and
  (d) be accompanied by the fee (if any) prescribed by the regulations for the making of such applications; and
  (e) be accompanied by a statement in writing from each other stakeholder (if any) in relation to the power station indicating that the other stakeholder agrees to the making of the application.

(4) If the Regulator refuses the application, the Regulator must notify the applicant accordingly.

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Division 11—Suspending the accreditation of a power station

30D Suspending the accreditation of a power station—interconnected power stations

(1) The Regulator may, by written notice, suspend the accreditation of an accredited power station if:

(a) the power station is part of a group of interconnected power stations; and

(b) one or more of the power stations (an ***excess station***) in the group generates electricity during a year that is in excess of its 1997 eligible renewable power baseline for the year; and

(c) one or more of the power stations (a ***shortfall station***) in the group generates nil electricity during the year or generates electricity during the year that is less than its 1997 eligible renewable power baseline for the year; and

(d) the Regulator is satisfied that more large-scale generation certificates are able to be created in respect of electricity generated during the year by any excess station than would be able to be created if any shortfall station had generated electricity during the year at least equal to its 1997 eligible renewable power baseline for the year.

Period of suspension

(2) The accreditation is suspended for such period (including permanently) as the Regulator considers appropriate in all of the circumstances. That period must be specified in the notice.

Note: Any electricity generated by the power station while its accreditation is suspended is to be excluded from all calculations under section 18: see subsection 18(4).

Group of interconnected power stations

(3) Two or more power stations form a ***group of interconnected power stations*** if:

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(a) each power station is able to generate electricity using a particular supply (the ***relevant supply***) of an eligible energy source; and

(b) the amount of electricity generated by each power station during a year using that supply is able to be coordinated in order to allow more large-scale generation certificates to be created in respect of the total electricity generated by the power stations during the year using that supply than would otherwise be able to be created.

Relevant matters

(4) In deciding whether or not to suspend the accreditation of an accredited power station under subsection (1), the Regulator must have regard to any information available to him or her that demonstrates that either or both of the outcomes referred to in paragraphs (1)(b) and (c) were not the result of a gaming arrangement.

(4A) In considering whether the outcomes referred to in paragraphs (1)(b) and (c) were or were not the result of a gaming arrangement, the Regulator must have regard to any matter prescribed by the regulations for the purposes of this subsection.

(5) The Regulator may have regard to such other matters as the Regulator thinks appropriate.

Gaming arrangement

(6) A ***gaming arrangement*** is an arrangement to coordinate the amount of electricity generated by each power station in the group during the year using the relevant supply in order to allow more large-scale generation certificates to be created in respect of the total electricity generated by the power stations in the group during the year using that supply than would otherwise be able to be created.

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30E Suspending the accreditation of a power station—other grounds

Failure to give an electricity generation return

(1) The Regulator may, by written notice, suspend the accreditation of an accredited power station if an electricity generation return for a year, in respect of the station, has not been given to the Regulator in accordance with section 20.

(2) The accreditation is suspended until the return is given to the Regulator in accordance with that section. The notice must include a statement to that effect.

Contravention of Commonwealth, State or Territory law

(3) The Regulator may, by written notice, suspend the accreditation of an accredited power station if the Regulator believes on reasonable grounds that the power station is being operated in contravention of a law of the Commonwealth, a State or a Territory.

(4) The accreditation is suspended until the Regulator believes on reasonable grounds that the power station is not being operated in contravention of that law. The notice must include a statement to that effect.

Other circumstances

(5) The Regulator may, by written notice, suspend the accreditation of an accredited power station in any other circumstances prescribed by the regulations.

(6) The accreditation is suspended for such period (including permanently) as the Regulator considers appropriate in all of the circumstances. That period must be specified in the notice.

Note: Any electricity generated by the power station while its accreditation is suspended under this section is to be excluded from all calculations under section 18: see subsection 18(4).

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Division 12—Varying 1997 eligible renewable power baselines and 2008 WCMG limits

30F Varying 1997 eligible renewable power baselines

(1) The Regulator may, by written determination, vary the 1997 eligible renewable power baseline for an accredited power station in the circumstances prescribed by the regulations.

(2) The regulations may make provision for the 1997 eligible renewable power baseline for an accredited power station to be varied if an action or policy of the Commonwealth Government reduces the power station's ability to generate electricity for a sustained period.

(3) Subsection (2) does not limit subsection (1).

Increase in baseline

(4) If a determination increases the 1997 eligible renewable power baseline for an accredited power station, the determination has effect only for the years following the year in which the determination is made.

Decrease in baseline

(5) If a determination decreases the 1997 eligible renewable power baseline for an accredited power station, the determination has effect for the year or years specified in the determination.

30G Varying 2008 WCMG limits

(1) The Regulator may, by written determination, vary the 2008 WCMG limit for an accredited power station.

(2) The Regulator must make a determination in accordance with guidelines prescribed in the regulations.

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Increase in limit

(3) If a determination increases the 2008 WCMG limit for an accredited power station, the determination has effect for the year or years specified in the determination.

Decrease in limit

(4) If a determination decreases the 2008 WCMG limit for an accredited power station, the determination has effect only for the years following the year in which the determination is made.

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Part 2A—Clearing house for small-scale technology certificates

Division 1—Preliminary

30H Overview of Part

This Part provides for the Regulator to establish and operate a clearing house for the transfer of small-scale technology certificates.

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Division 2—Regulator to establish and operate clearing house

30J Regulator to establish and operate clearing house

The Regulator is to establish and operate a facility (the ***clearing house***) for the transfer of small-scale technology certificates in accordance with this Part.

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Division 3—Entering certificates into the clearing house

30K Application for certificate to be entered into the clearing house

(1) A person who:

(a) is the registered owner of a small-scale technology certificate; or

(b) has both:

(i) created a small-scale technology certificate; and

(ii) advised the Regulator of the creation of the certificate under subsection 26(2);

may apply to the Regulator for the certificate to be entered into the clearing house.

(2) The application must:

(a) be in writing; and

(b) be in a form approved, in writing, by the Regulator; and

(c) be accompanied by any information required by the regulations; and

(d) be accompanied by any documents required by the regulations.

30L Regulator to enter certificate into the clearing house

(1) If:

(a) an application is made in accordance with section 30K in relation to a small-scale technology certificate; and

(b) the certificate is or becomes registered in the register of small-scale technology certificates;

the Regulator must enter the certificate into the clearing house by including the certificate on the clearing house transfer list in accordance with the regulations.

(2) The ***clearing house transfer list*** is a list, maintained by the Regulator in accordance with the regulations, of the certificates

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that are available for transfer through the clearing house. The list must be maintained so that:

(a) subject to paragraph (b), certificates are included on the list in the order in which applications relating to the certificates are received (with the certificates to which the most recent applications relate at the bottom of the list); and

(b) if a certificate to which an application relates does not become registered until after the application was received, paragraph (a) applies as if the application was received when the certificate was registered; and

(c) a certificate must be removed from the list if:

(i) the certificate is withdrawn from the clearing house; or

(ii) the certificate is transferred under section 30N; or

(iii) the certificate is cancelled under section 30P.

Note: Regulations under section 30U may allow the Regulator to remove certificates from the list in other circumstances.

(3) If the Regulator includes a certificate on the clearing house transfer list, the Regulator must:

(a) alter the register of small-scale technology certificates to show that the certificate is in the clearing house; and

(b) take such other steps as are prescribed by the regulations.

(4) While a certificate is on the clearing house transfer list, the certificate may still be transferred by its registered owner to another person otherwise than under this Part. Despite that transfer, the certificate will remain on the clearing house transfer list, and may be dealt with under this Part, unless the new registered owner withdraws the certificate from the clearing house.

Note: See also sections 27 (certificates may be transferred) and 28 (Regulator to be notified of transfer).

(5) The clearing house transfer list is not a legislative instrument.

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Division 4—Purchase of certificates through the clearing house

30LA Clearing house price etc.

(1) The ***clearing house price*** is:

(a) subject to paragraph (b)—$40; or

(b) if the Minister, by legislative instrument, specifies a lesser amount as being the clearing house price for the purpose of this subsection—the amount so specified.

(2) The ***GST inclusive clearing house price*** is the amount equal to 110% of the clearing house price.

(3) Before making an instrument under paragraph (1)(b), the Minister:

(a) must take into consideration:

(i) whether the total value, in MWh, of small-scale technology certificates created in 2015 exceeded or is expected to exceed 6,000,000; and

(ii) any changes to the costs of small generation units and solar water heaters; and

(iii) the extent to which owners of small generation units and solar water heaters contribute to the costs of small generation units and solar water heaters; and

(iv) the impact of the clearing house price, and the number of small generation units and solar water heaters installed, on the electricity market, including on electricity prices; and

(b) may take into consideration any other matters that the Minister considers relevant.

(4) If the Minister is considering a matter mentioned in paragraph (3)(a), the Minister must obtain, and take into consideration, independent advice about that matter.

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(5) An instrument made under paragraph (1)(b) must not be expressed to commence earlier than the first 1 April following the making of the instrument.

(6) If:

(a) an instrument is made under paragraph (1)(b); and

(b) on a particular day (the ***tabling day***), a copy of the instrument is tabled before a House of the Parliament under section 38 of the *Legislation Act 2003*;

then, on or as soon as practicable after the tabling day, the Minister must cause to be tabled before that House a written statement setting out the Minister's reasons for making the instrument.

30M Application for purchase of certificate through the clearing house

(1) Subject to subsection (2), a person may apply to the Regulator to purchase a small-scale technology certificate.

(2) The regulations may provide that certain persons are not entitled (either generally or in particular circumstances) to make an application.

(3) An application must:

(a) be in writing; and

(b) be in a form approved, in writing, by the Regulator; and

(c) be accompanied by the GST inclusive clearing house price; and

(d) be accompanied by any fee required by the regulations.

30N If there is a certificate on the clearing house transfer list—Regulator to transfer certificate

Scope

(1) This section applies if:

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(a) a person (the ***purchaser***) has made an application in accordance with section 30M to purchase a small-scale technology certificate; and
(b) there is a small-scale technology certificate on the clearing house transfer list.

Regulator to transfer certificate at top of clearing house transfer list

(2) The Regulator must transfer the certificate that is at the top of the clearing house transfer list to the purchaser on behalf of the person (the ***seller***) who, immediately before the transfer, was the registered owner of that certificate.

(3) If the Regulator transfers a certificate under subsection (2), the Regulator must, as soon as practicable:
(a) give the purchaser notice in writing of the transfer; and
(b) pay the seller the amount specified in subsection (4); and
(c) alter the register of small-scale technology certificates to show the purchaser as the owner of the certificate.

(4) For the purposes of paragraph (3)(b), the amount is:
(a) if the transfer of the certificate is a taxable supply by the seller to the purchaser—the GST inclusive clearing house price; or
(b) if the transfer of the certificate is not a taxable supply by the seller to the purchaser—the clearing house price.

(5) Ownership of the certificate transfers to the purchaser when the register of small-scale technology certificates is altered in accordance with paragraph (3)(c).

30P If there is no certificate on the clearing house transfer list—Regulator to create certificate

Scope

(1) This section applies if:

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(a) a person (the ***purchaser***) has made an application in accordance with section 30M to purchase a small-scale technology certificate; and

(b) there is no small-scale technology certificate on the clearing house transfer list.

Regulator to create certificate

(2) The Regulator must create a small-scale technology certificate for the purchaser.

(3) If the Regulator creates a certificate under subsection (2):

(a) the certificate is valid; and

(b) the Regulator must, as soon as practicable:

(i) give the purchaser notice in writing of the creation of the certificate; and

(ii) create an entry for the certificate in the register of small-scale technology certificates and record the purchaser as the owner of the certificate.

Cancellation of next certificate included on clearing house transfer list

(4) If a certificate is created under subsection (2), the following provisions apply:

(a) the next small-scale technology certificate (the ***transferred certificate***) that is included on the clearing house transfer list is, immediately after being so included, taken to be transferred to the Regulator by the person (the ***seller***) who was its registered owner immediately before it was included on the list;

(b) the Regulator must, as soon as practicable:

(i) cancel the transferred certificate; and

(ii) pay the seller the amount specified in subsection (5); and

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(iii) alter the entry relating to the transferred certificate in the register of small-scale technology certificates to show that the transferred certificate is no longer valid.

(5) For the purposes of subparagraph (4)(b)(ii), the amount is:

(a) if the transfer to the Regulator of the transferred certificate constitutes a taxable supply by the seller to the Regulator—the GST inclusive clearing house price; or

(b) if the transfer to the Regulator of the transferred certificate does not constitute a taxable supply by the seller to the Regulator—the clearing house price.

30Q Form and content of certificates created by the Regulator

(1) Certificates created by the Regulator under subsection 30P(2) are to be created in an electronic form approved in writing by the Regulator.

(2) Each certificate is to contain:

(a) the year; and

(b) a statement to the effect that the certificate was created by the Regulator under section 30P; and

(c) a number in an unbroken sequence that is used for all certificates created by the Regulator in that year and that starts at one and has increments of one; and

(d) the date on which the certificate was created.

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Division 5—Renewable Energy Special Account

30R Renewable Energy Special Account

(1) The Renewable Energy Special Account is established by this section.

(2) The Renewable Energy Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

30S Credits to the Renewable Energy Special Account

There must be credited to the Renewable Energy Special Account amounts equal to amounts received by the Regulator under paragraph 30M(3)(c) in relation to the purchase of certificates.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

30T Purposes of the Renewable Energy Special Account

The purposes of the Renewable Energy Special Account are as follows:

(a) paying amounts under paragraph 30N(3)(b) in relation to the transfer of certificates;

(b) paying amounts under subparagraph 30P(4)(b)(ii) in relation to the transfer of certificates;

(c) refunding amounts under regulations made for the purpose of paragraph 30U(2)(i);

(d) paying amounts of GST for which the Regulator is liable because of the creation of certificates for purchasers under section 30P.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

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Division 6—Other matters

30U Regulations about the operation of the clearing house

(1) The regulations may prescribe the policies, procedures and rules that apply in relation to the establishment and operation of the clearing house.

(2) In particular, the regulations may deal with any or all of the following matters:

(a) the time when applications may be made;

(b) the time within which, and the manner by which, applications must be dealt with;

(c) the withdrawal of certificates from the clearing house;

(d) the circumstances in which the Regulator may remove a certificate from the clearing house transfer list other than under paragraph 30L(2)(c);

(e) the timing and methods of payment of amounts;

(f) the publication of information about the clearing house, including publication of the clearing house transfer list;

(g) the keeping of records by the Regulator in relation to the operation of the clearing house;

(h) the fees that are payable in relation to matters connected with the clearing house (including matters connected with the Regulator's powers and functions in relation to the clearing house and the clearing house transfer list);

(i) the payment of refunds in the following circumstances:

(i) a small-scale technology certificate is transferred to a purchaser under section 30N but the transfer is not a taxable supply by the seller to the purchaser;

(ii) a small-scale technology certificate is created for a purchaser under section 30P but the creation of the certificate is not a taxable supply by the Regulator to the purchaser.

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Part 3—Acquisition of electricity

31 What are *relevant acquisitions*?

(1) There are 2 types of ***relevant acquisitions*** of electricity. These are:
  (a) a wholesale acquisition (see section 32); and
  (b) a notional wholesale acquisition (see section 33).

(2) An acquisition is not a relevant acquisition if:
  (a) the electricity was delivered on a grid that has a capacity that is less than 100 MW and that is not, directly or indirectly, connected to a grid that has a capacity of 100 MW or more; or
  (b) the end user of the electricity generated the electricity and either of the following conditions are satisfied:
    (i) the point at which the electricity is generated is less than 1 kilometre from the point at which the electricity is used;
    (ii) the electricity is transmitted or distributed between the point of generation and the point of use and the line on which the electricity is transmitted or distributed is used solely for the transmission or distribution of electricity between those 2 points; or
  (c) the electricity is later acquired by AEMO or a person or body prescribed by the regulations.

(3) The amount of electricity acquired under a relevant acquisition and the capacity of a grid are to be determined in accordance with the regulations.

(4) A person who owns, operates or controls a grid must give the Regulator a statement within 28 days of either of the following happening:
  (a) the capacity of the grid increases from less than 100 MW to 100 MW or more;

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(b) the grid becomes connected, directly or indirectly, to a grid that has a capacity of 100 MW or more.

The statement must include any information specified in the regulations.

32 Wholesale acquisitions

(1) A ***wholesale acquisition*** is an acquisition of electricity from:

(a) AEMO or a person or body prescribed by the regulations; or

(b) a person who did not acquire it from another person.

(2) To avoid doubt, subsection (1) does not apply where an end user acquires electricity from the person who generated the electricity and subsection 33(2) applies to create a notional wholesale acquisition in connection with that acquisition.

(3) If there is a wholesale acquisition of electricity under this section, then no other acquisition in relation to that electricity is a relevant acquisition (regardless of when the other acquisition occurs).

33 Notional wholesale acquisitions

(1) There are 2 situations in which a ***notional wholesale acquisition*** of electricity takes place.

(2) The first situation is where the end user of the electricity acquires the electricity from the person who generated the electricity and the end user is not registered under the National Electricity Rules. In this situation, the person who generated the electricity is taken to be 2 persons (the ***notional generator*** and the ***notional wholesaler***), and this Act applies as if the notional wholesaler acquired the electricity from the notional generator at the time that the end user acquired the electricity. That acquisition is a ***notional wholesale acquisition***.

(3) The second situation is where the end user of the electricity generated the electricity and neither of the following conditions are satisfied:

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(a) the point at which the electricity is generated is less than 1 kilometre from the point at which the electricity is used;

(b) the electricity is transmitted or distributed between the point of generation and the point of use and the line on which the electricity is transmitted or distributed is used solely for the transmission or distribution of electricity between those 2 points.

In this situation, the person who generated the electricity is taken to be 2 persons (the ***notional generator*** and the ***notional wholesaler***), and this Act applies as if the notional wholesaler acquired the electricity from the notional generator at the time that the electricity is used. That acquisition is a ***notional wholesale acquisition***.

34 Special provision relating to transactions involving AEMO or a person or body prescribed by the regulations

Despite section 31, no acquisition of electricity by AEMO or a person or body prescribed by the regulations is a relevant acquisition.

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Part 4—Renewable energy shortfall charge

Division 1AA—Preliminary

34A Overview of Part

This Part deals with liability to renewable energy shortfall charge.

Subdivision A of Division 1 defines who is a liable entity.

There are 2 types of renewable energy shortfall charge:

(a) large-scale generation shortfall charge (see Subdivision B of Division 1), which is calculated by reference to a liable entity's relevant acquisitions of electricity, its exemptions, the number of large-scale generation certificates it surrenders and the renewable energy power percentage; and

(b) small-scale technology shortfall charge (see Subdivision C of Division 1), which is calculated by reference to a liable entity's relevant acquisitions of electricity, its exemptions, the number of small-scale technology certificates it surrenders and the small-scale technology percentage.

Division 1A deals with the determination of the amount (if any) of a liable entity's exemption from charge.

Division 2 deals with the renewable power percentage for large-scale generation shortfall charge.

Division 2A deals with the small-scale technology percentage for small-scale technology charge.

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Section 34A

Division 3 deals with other matters related to renewable energy shortfall charge.

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Division 1—Liability to charge

Subdivision A—Liable entities

35 Liable entities

A person who, during a year, makes a relevant acquisition of electricity is called a ***liable entity***.

Note: ***Relevant acquisition*** is defined in section 31.

Subdivision B—Large-scale generation shortfall charge

36 Large-scale generation shortfall charge payable by liable entity

(1) Subject to subsection (2), if a liable entity has a large-scale generation shortfall for a year, ***large-scale generation shortfall charge*** is payable in respect of the shortfall.

(2) No large-scale generation shortfall charge is payable by a liable entity for a year if its large-scale generation shortfall for the year is less than 10% of the liable entity's required large-scale renewable energy for the year. However, the large-scale generation shortfall becomes a ***carried forward shortfall*** for the year.

(3) Large-scale generation shortfall charge imposed in respect of a liable entity's large-scale generation shortfall for a year is payable by the liable entity.

Note: Large-scale generation shortfall charge is imposed by the *Renewable Energy (Electricity) (Large-scale Generation Shortfall Charge) Act 2000*.

37 Amount of charge

The amount of large-scale generation shortfall charge payable by a liable entity is worked out using the formula:

$$\text{Large-scale generation shortfall} \times \text{Rate of charge}$$

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where:

rate of charge is the rate of charge as specified in section 6 of the *Renewable Energy (Electricity) (Large-scale Generation Shortfall Charge) Act 2000*.

38 Determination of large-scale generation shortfall

The following method statement shows how to work out a liable entity's ***large-scale generation shortfall*** for a year:

Method statement

Step 1. Work out the total amount, in MWh, of electricity acquired by the liable entity during the year under relevant acquisitions.

Step 2. Subtract from the total electricity acquired the amount of the liable entity's exemption for the year.

Step 3. Multiply the result of step 2 by the renewable power percentage for the year and round the result to the nearest MWh (rounding 0.5 upwards). Add to the result any carried forward shortfall from the previous year or subtract any carried forward surplus for the previous year. The result is the liable entity's ***required large-scale renewable energy*** for the year.

Step 4. Subtract the total value, in MWh, of large-scale generation certificates surrendered for that year, under Subdivision A of Division 1 of Part 5, by the liable entity from the required large-scale renewable energy for the year.

Result: If the result is greater than zero, the liable entity has a large-scale generation shortfall for the year equal to the result.

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If the result is zero, the liable entity does not have a large-scale generation shortfall for the year.

If the result is less than zero, the liable entity has a ***carried forward surplus*** for the year equal to the result (expressed as a positive).

Subdivision C—Small-scale technology shortfall charge

38AA Interpretive provisions relating to liability for small-scale technology shortfall charge etc.

(1) This section defines expressions that are used in provisions that deal with the determination of a liable entity's liability to small-scale technology shortfall charge for a year (the ***assessment year***), and related matters.

Assessment year's reduced acquisitions

(2) The ***assessment year's reduced acquisitions*** is the amount worked out by subtracting the amount of the liable entity's exemption (if any) for the assessment year from the total amount, in MWh, of electricity acquired during the assessment year by the liable entity under relevant acquisitions.

Previous year's reduced acquisitions

(3) The ***previous year's reduced acquisitions*** is the amount worked out by subtracting the amount of the liable entity's exemption (if any) for the previous year from the amount, in MWh, of electricity acquired by the liable entity during the previous year under relevant acquisitions.

(4) For the purpose of subsection (3):

(a) the amount, in MWh, of electricity acquired during the previous year by the liable entity under relevant acquisitions is taken to be the amount stated as having been so acquired in the liable entity's energy acquisition statement for the

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previous year (taking account of any amendments to that statement that were made before 1 April in the assessment year); and

(b) the amount of the liable entity's exemption for the previous year is taken to be the total amount of exemption claimed in the liable entity's energy acquisition statement for the previous year (taking account of any amendments to that statement that were made before 1 April in the assessment year); and

(c) if, for any reason, the liable entity has not lodged an energy acquisition statement for the previous year before 1 April in the assessment year, the liable entity is taken not to have any previous year's reduced acquisitions.

Note: If paragraph (4)(c) applies, the liable entity may make an application under section 38AG to have an amount apply as if it were the previous year's reduced acquisitions. If the entity does not do so, the default rule in section 38AH will apply.

The quarters of a year

(5) Each year consists of ***quarters*** as follows:

(a) January, February and March in the year (the ***first quarter***);

(b) April, May and June in the year (the ***second quarter***);

(c) July, August and September in the year (the ***third quarter***);

(d) October, November and December in the year (the ***fourth quarter***).

The surrender period for a quarter

(6) The ***surrender period*** for a quarter of a year is as follows (inclusive of the specified dates):

(a) for the first quarter—the period from 15 February to 28 April in the year;

(b) for the second quarter—the period from 29 April to 28 July in the year;

(c) for the third quarter—the period from 29 July to 28 October in the year;

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(d) for the fourth quarter—the period from 29 October in the year to the time by which the liable entity is required to lodge an energy acquisition statement for the year.

Note: The period described in paragraph (6)(d) will end on 14 February in the next year, unless the Regulator allows a later day under paragraph 44(1)(b).

(7) Section 36 of the *Acts Interpretation Act 1901* does not affect the time when the surrender period for the first, second or third quarter of a year ends.

38AB Small-scale technology shortfall charge payable by liable entity

(1) If a liable entity has a small-scale technology shortfall for a year, ***small-scale technology shortfall charge*** is payable in respect of the shortfall.

(2) Small-scale technology shortfall charge imposed in respect of a liable entity's small-scale technology shortfall for a year is payable by the liable entity.

Note: Small-scale technology shortfall charge is imposed by the *Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Act 2010*.

38AC Amount of charge

The amount of small-scale technology shortfall charge payable by a liable entity is worked out using the formula:

$$\text{Small-scale technology shortfall} \times \text{Rate of charge}$$

where:

rate of charge is the rate of charge as specified in section 6 of the *Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Act 2010*.

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38AD Determination of small-scale technology shortfall

(1) A liable entity's ***small-scale technology shortfall*** for a year is to be worked out by adding together the quarterly shortfalls (if any) calculated in relation to the entity for the quarters of the year under section 38AE.

(2) If the result is a positive amount, the liable entity has a small-scale technology shortfall for the year equal to the result.

(3) If the result is zero, the liable entity does not have a small-scale technology shortfall for the year.

38AE Quarterly shortfalls for the quarters of a year

First quarter of year

(1) The following method statement shows how to work out a liable entity's quarterly shortfall for the first quarter of a year (the ***assessment year***).

Method statement

Step 1. Work out 35% of the previous year's reduced acquisitions. Multiply this by the small-scale technology percentage for the assessment year and round the result to the nearest MWh (rounding 0.5 upwards). The result is the ***required surrender amount***.

Step 2. Add together:

(a) the total value, in MWh, of small-scale technology certificates surrendered, under Subdivision A of Division 1 of Part 5, by the liable entity during the surrender period for the first quarter; and

(b) the amount of any quarterly surplus that the liable entity has for the fourth quarter of the previous year.

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The result is the ***surrendered amount***.

Step 3. Subtract the surrendered amount from the required surrender amount.

Result: If the result is greater than zero, the liable entity has a ***quarterly shortfall*** for the first quarter of the assessment year equal to the result.

If the result is zero, the liable entity does not have a quarterly shortfall for the first quarter of the assessment year.

If the result is less than zero, the liable entity has a ***quarterly surplus*** for the first quarter of the assessment year equal to the result (expressed as a positive).

Second quarter of the assessment year

(2) The following method statement shows how to work out a liable entity's quarterly shortfall for the second quarter of the assessment year.

Method statement

Step 1. Work out 25% of the previous year's reduced acquisitions. Multiply this by the small-scale technology percentage for the assessment year and round the result to the nearest MWh (rounding 0.5 upwards). The result is the ***required surrender amount***.

Step 2. Add together:

(a) the total value, in MWh, of small-scale technology certificates surrendered, under Subdivision A of Division 1 of Part 5, by the liable entity during the surrender period for the second quarter; and

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(b) the amount of any quarterly surplus that the liable entity has for the first quarter of the assessment year.

The result is the ***surrendered amount***.

Step 3. Subtract the surrendered amount from the required surrender amount.

Result: If the result is greater than zero, the liable entity has a ***quarterly shortfall*** for the second quarter of the assessment year equal to the result.

If the result is zero, the liable entity does not have a quarterly shortfall for the second quarter of the assessment year.

If the result is less than zero, the liable entity has a ***quarterly surplus*** for the second quarter of the assessment year equal to the result (expressed as a positive).

Third quarter of the assessment year

(3) The following method statement shows how to work out a liable entity's quarterly shortfall for the third quarter of the assessment year.

Method statement

Step 1. Work out 25% of the previous year's reduced acquisitions. Multiply this by the small-scale technology percentage for the assessment year and round the result to the nearest MWh (rounding 0.5 upwards). The result is the ***required surrender amount***.

Step 2. Add together:

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(a) the total value, in MWh, of small-scale technology certificates surrendered, under Subdivision A of Division 1 of Part 5, by the liable entity during the surrender period for the third quarter; and

(b) the amount of any quarterly surplus that the liable entity has for the second quarter of the assessment year.

The result is the ***surrendered amount***.

Step 3. Subtract the surrendered amount from the required surrender amount.

Result: If the result is greater than zero, the liable entity has a ***quarterly shortfall*** for the third quarter of the assessment year equal to the result.

If the result is zero, the liable entity does not have a quarterly shortfall for the third quarter of the assessment year.

If the result is less than zero, the liable entity has a ***quarterly surplus*** for the third quarter of the assessment year equal to the result (expressed as a positive).

Fourth quarter of the assessment year

(4) The following method statement shows how to work out a liable entity's quarterly shortfall for the fourth quarter of the assessment year.

Method statement

Step 1. Work out the assessment year's reduced acquisitions. Multiply this by the small-scale technology percentage

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for the assessment year and round the result to the nearest MWh (rounding 0.5 upwards).

Step 2. Subtract from the amount worked out under step 1 the total of the required surrender amounts for the first, second and third quarters of the assessment year. The result (which may be less than zero) is the ***required surrender amount***.

Step 3. Add together:

(a) the total value, in MWh, of small-scale technology certificates surrendered, under Subdivision A of Division 1 of Part 5, by the liable entity during the surrender period for the fourth quarter; and

(b) the amount of any quarterly surplus that the liable entity has for the third quarter of the assessment year.

The result is the ***surrendered amount***.

Step 4. If the required surrender amount is zero or greater, subtract the surrendered amount from the required surrender amount.

Result: If the result is greater than zero, the liable entity has a ***quarterly shortfall*** for the fourth quarter of the assessment year equal to the result.

If the result is zero, the liable entity does not have a quarterly shortfall for the fourth quarter of the assessment year.

If the result is less than zero, the liable entity has a ***quarterly surplus*** for the fourth quarter of the assessment year equal to the result (expressed as a positive amount).

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Step 5.	If the required surrender amount is less than zero, add together that amount (expressed as a positive) to the surrendered amount.
Result:	The liable entity has a ***quarterly surplus*** for the fourth quarter of the assessment year equal to the result.

38AF Energy acquisition statement lodged for previous year: application to have amount apply instead of previous year's reduced acquisitions

(1) If the liable entity lodged an energy acquisition statement for the previous year before 1 April in the assessment year, the liable entity may apply to the Regulator to have an amount (the ***proposed amount***) apply instead of the previous year's reduced acquisitions for the purpose of applying section 38AE to the assessment year.

(2) The application must:
  (a) specify the proposed amount; and
  (b) be made before 1 October in the assessment year.

  Note: For other provisions relating to the making of applications, see section 38AI.

(3) The Regulator must consider the application and must, in writing:
  (a) determine that the proposed amount, or a different amount, is to apply instead of the amount of the previous year's reduced acquisitions; or
  (b) refuse to make such a determination.

(4) A determination under subsection (3) is not a legislative instrument.

(5) In relation to the Regulator's power to determine an amount that is different from the proposed amount:
  (a) a different amount determined by the Regulator must not be less than the proposed amount and must not exceed the previous year's reduced acquisitions; and

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(b) before determining a different amount, the Regulator must:
(i) invite the liable entity to comment on the amount that the Regulator proposes to determine; and
(ii) consider the liable entity's comments (if any).

(6) If the Regulator determines an amount under paragraph (3)(a) then, subject to subsection (7), section 38AE applies to the entity and the assessment year as if the amount determined were the previous year's reduced acquisitions.

(7) If the assessment year's reduced acquisitions exceed the amount determined by more than the prescribed percentage of the amount determined, then:
(a) subsection (6) does not apply; and
(b) references in section 38AE to the previous year's reduced acquisitions are instead taken to be references to the assessment year's reduced acquisitions.

For this purpose, the ***prescribed percentage*** is the percentage prescribed by the regulations for the purpose of this subsection.

(8) The Regulator must give the liable entity written notice of the Regulator's decision in relation to the application.

(9) The Regulator must comply with any requirements prescribed by the regulations in relation to the exercise of the Regulator's functions or powers under this section.

38AG No energy acquisition statement lodged for previous year: application to have amount apply as if it were previous year's reduced acquisitions

(1) If, for any reason, the liable entity did not lodge an energy acquisition statement for the previous year before 1 April in the assessment year, the liable entity may apply to the Regulator to have an amount (the ***proposed amount***) apply as if it were the previous year's reduced acquisitions for the purpose of applying subsection 38AE(1), (2) or (3) to a quarter (the ***relevant quarter***) of the assessment year.

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Note 1: Different amounts may be proposed by the liable entity, and different amounts may be determined by the Regulator, in relation to different quarters of the assessment year.

Note 2: If the liable entity does not make an application under this section, the default rule in section 38AH will apply.

(2) The application must:

(a) specify the proposed amount for the relevant quarter; and

(b) be made before the end of the assessment year.

Note: For other provisions relating to the making of applications, see section 38AI.

(3) The Regulator must consider the application and must, in writing:

(a) determine that the proposed amount, or a different amount, is to apply for the relevant quarter as if it were the previous year's reduced acquisitions; or

(b) refuse to make such a determination.

(4) A determination under subsection (3) is not a legislative instrument.

(5) In relation to the Regulator's power to determine an amount that is different from the proposed amount for the relevant quarter:

(a) a different amount determined by the Regulator must not be less than the proposed amount; and

(b) before determining a different amount, the Regulator must:

(i) invite the liable entity to comment on the amount that the Regulator proposes to determine; and

(ii) consider the liable entity's comments (if any).

(6) If the Regulator determines an amount for the relevant quarter under paragraph (3)(a), then subsection 38AE(1), (2) or (3) (as the case requires) applies to the relevant quarter as if the amount determined were the previous year's reduced acquisitions.

(7) The Regulator must give the liable entity written notice of the Regulator's decision in relation to the application.

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(8) The Regulator must comply with any requirements prescribed by the regulations in relation to the exercise of the Regulator's functions or powers under this section.

38AH No energy acquisition statement lodged for previous year: default rule

(1) This section applies, in relation to the first, second or third quarter (the ***relevant quarter***) of the assessment year, if:

(a) for any reason, the liable entity did not lodge an energy acquisition statement for the previous year before 1 April in the assessment year; and

(b) either:

(i) the liable entity did not make an application under section 38AG before the end of the assessment year in relation to the relevant quarter; or

(ii) the liable entity made such an application in relation to the relevant quarter, but the Regulator refused to make a determination under paragraph 38AG(3)(a) in relation to that quarter.

(2) If this section applies, then subsection 38AE(1), (2) or (3) (as the case requires) applies to the relevant quarter as if the amount specified in whichever of the following paragraphs applies were the previous year's reduced acquisitions:

(a) if the liable entity made relevant acquisitions of electricity in the relevant quarter—the amount of the assessment year's reduced acquisitions;

(b) if the liable entity did not make any relevant acquisitions of electricity in the relevant quarter—zero.

38AI General provisions relating to applications under sections 38AF and 38AG

Requirements for applications

(1) An application under section 38AF or 38AG must:

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(a) be in writing; and
(b) be in a form approved, in writing, by the Regulator; and
(c) include any information required by the regulations; and
(d) be accompanied by any documents required by the regulations; and
(e) be accompanied by any report required by the regulations; and
(f) be accompanied by any fee required by the regulations.

(2) The approved form of application may provide for verification by statutory declaration of statements in applications.

Regulator may require further information

(3) The Regulator may, by written notice given to a liable entity that has made an application under section 38AF or 38AG, require the entity to give the Regulator, within the period specified in the notice, further information in connection with the application.

(4) If the entity breaches the requirement, the Regulator may, by written notice given to the entity:
(a) refuse to consider the application; or
(b) refuse to take any action, or any further action, in relation to the application.

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Division 1A—Exemption from liability to charge

38A Object

The object of this Division is to provide a liable entity with an exemption (for an amount worked out in accordance with this Division), from large-scale generation shortfall charge and small-scale technology charge, in respect of emissions-intensive trade-exposed activities.

38B Amount of exemption

(1) The amount of a liable entity's exemption for a year is the total of all the exemption amounts in exemption certificates:
  (a) issued in relation to the liable entity for the year; and
  (b) included in the liable entity's energy acquisition statement for the year.

(2) The ***exemption amount in an exemption certificate*** is the amount specified or described in the certificate as being the amount of the liable entity's exemption.

38C Information about exemptions to be published on Regulator's website

(1) If a liable entity receives an exemption for a year, the Regulator must, before 1 October in the following year, publish on its website:
  (a) the name of the entity; and
  (b) the value in dollars, estimated by the Regulator, of the amount of the entity's exemption for the year; and
  (c) such other information in relation to the exemption as is required by the regulations.

(2) The Regulator must also publish on its website such other information in relation to exemptions as is required by the regulations.

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(3) If a liable entity's exemption is later reduced or increased, the Regulator must correct the information on its website.

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Division 2—Renewable power percentage for large-scale generation shortfall charge

39 Regulations to specify renewable power percentage

(1) The ***renewable power percentage*** for a year is the percentage specified in the regulations for the purpose of this subsection. The regulation specifying a percentage for a year must be made on or before 31 March in the year.

(2) If the regulations do not specify a percentage for a year, the percentage for the year is:

(a) for the year commencing on 1 January 2001—0.24%; and

(b) for any later year—the rate worked out using the formula:

$$\text{Renewable power percentage for the previous year} \times \frac{\text{Required GWh of renewable source electricity for the year}}{\text{Required GWh of renewable source electricity for the previous year}}$$

(3) Before the Governor-General makes a regulation under subsection (1), the Minister must take into consideration:

(a) the required GWh of renewable source electricity for the year; and

(b) the amount estimated as the amount of electricity that will be acquired under relevant acquisitions during the year; and

(c) the amount by which the required GWhs of renewable source electricity for all previous years has exceeded, or has been exceeded by, the amount of renewable source electricity required under the scheme in those years; and

(d) the amount estimated as the amount of all exemptions that will be claimed for the year.

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(3A) If, at the time the Minister takes into consideration the matters referred to in subsection (3), the amount applicable under paragraph (3)(c) is not known, then the Minister may take into consideration an estimate of that amount instead.

(4) The amount of renewable source electricity required under the scheme in a year is worked out using the formula:

$$\left(\begin{array}{c}\text{Total electricity}\\ \text{acquired under}\\ \text{relevant acquisitions}\\ \text{during the year, in MWh}\end{array} - \begin{array}{c}\text{Total of all}\\ \text{exemptions}\\ \text{for the year,}\\ \text{in MWh}\end{array}\right) \times \begin{array}{c}\text{Renewable}\\ \text{power percentage}\\ \text{for the year}\end{array}$$

(5) A failure to comply with subsection (3) does not affect the validity of the regulations.

40 Required GWh of renewable source electricity

The ***required GWh of renewable source electricity*** for a year is as set out in the following table:

Required GWh of renewable source electricity

Year	GWh
2001	300
2002	1100
2003	1800
2004	2600
2005	3400
2006	4500
2007	5600
2008	6800
2009	8100
2010	12500
2011	10400
2012	16763

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Required GWh of renewable source electricity	
Year	**GWh**
2013	19088
2014	16950
2015	18850
2016	21431
2017	26031
2018	28637
2019	31244
2020	33850
2021	33000
2022	33000
2023	33000
2024	33000
2025	33000
2026	33000
2027	33000
2028	33000
2029	33000
2030	33000

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Division 2A—Small-scale technology percentage for small-scale technology shortfall charge

40A Regulations to specify small-scale technology percentage

(1) The ***small-scale technology percentage*** for a year is the percentage prescribed by the regulations for the purpose of this subsection. The regulations prescribing a percentage for a year must be made on or before 31 March in the year.

(2) If the regulations do not prescribe a percentage for the year starting on 1 January 2012 or a later year, the ***small-scale technology percentage*** for that year is the rate worked out using the formula:

$$\text{Previous year's small-scale technology percentage} \times \frac{\text{Certificate value for previous year}}{\text{Certificate value for year before previous year}}$$

where:

certificate value for previous year is the total value, in MWh, of small-scale technology certificates created in the previous year.

certificate value for year before previous year is the total value, in MWh, of small-scale technology certificates created in the year before the previous year.

(3) Before the Governor-General makes a regulation under subsection (1) specifying the small-scale technology percentage for a year (the ***current year***), the Minister must take into consideration:

(a) the estimated value, in MWh, of small-scale technology certificates that will be created in the current year under Subdivisions B and BA of Division 4 of Part 2; and

(b) the amount estimated as the amount of electricity that will be acquired under relevant acquisitions during the current year; and

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(c) the amount estimated as the amount of all exemptions that will be claimed for the current year; and

(d) if the current year is the year commencing on 1 January 2012 or a later year:

(i) the amount by which the previous year's estimate under paragraph (a) exceeded, or was exceeded by, the value, in MWh, of small-scale technology certificates that were created in that year under Subdivisions B and BA of Division 4 of Part 2; and

(ii) the amount by which the previous year's estimate under paragraph (b) exceeded, or was exceeded by, the amount of electricity that was acquired under relevant acquisitions during that year; and

(iii) the amount by which the previous year's estimate under paragraph (c) exceeded, or was exceeded by, the amount of exemptions that were claimed for the previous year.

(4) If, at the time the Minister takes into consideration the matters referred to in subsection (3), the amount referred to in subparagraph (3)(d)(i), (ii) or (iii) is not known, then the Minister may take into consideration an estimate of that amount instead.

(5) A failure to comply with subsection (3) does not affect the validity of the regulations.

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Division 2AA—Emerging renewable energy technologies

40AB Inclusion of emerging renewable energy technologies

The Minister may, by legislative instrument, determine that an emerging renewable energy technology be included as a renewable energy technology for the purpose of the scheme constituted by this Act.

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Division 3—Other provisions related to renewable energy shortfall charge

40B Regulator to publish estimate of small-scale technology percentage

(1) Before 31 March in each year, the Regulator must publish on its website an estimate of the small-scale technology percentage for each of the next 2 years.

(2) An estimate published under this section:
  (a) does not in any way bind the Regulator, the Commonwealth or any other person; and
  (b) does not in any way affect the determination of a liable entity's liability to small-scale technology shortfall charge for a year.

40C Regulator to give liable entity estimate of current year's required surrender amounts for first 3 quarters

(1) If a liable entity lodges an energy acquisition statement for a year before 1 April in the next year (the ***current year***), the Regulator must, before 15 April in the current year, give the liable entity written notice of the amounts that the Regulator estimates will be the liable entity's required surrender amounts under section 38AE for the first, second and third quarters of the current year.

(2) In making an estimate under subsection (1), the Regulator is to disregard any determination made by the Regulator under section 38AF on or after 1 April in the current year.

(3) An estimate given to a liable entity under this section:
  (a) does not in any way bind the Regulator, the Commonwealth or any other person; and
  (b) does not in any way affect the determination of the liable entity's liability to small-scale technology shortfall charge for a year.

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41 Arrangements to avoid or reduce renewable energy shortfall charge

If:

(a) a liable entity makes an arrangement; and

(b) as a result of the arrangement the liable entity's large-scale generation shortfall or small-scale technology shortfall in a year is reduced; and

(c) in the Regulator's opinion the arrangement was made solely or principally for the purpose of avoiding payment of renewable energy shortfall charge otherwise than in accordance with this Act;

the liable entity is liable to pay for the year an amount of renewable energy shortfall charge equal to the amount that, in the Regulator's opinion, the liable entity would have been liable to pay if the arrangement had not been made.

Note: See also section 101 (about payment of penalty charge).

42 Application of Act to Commonwealth

(1) The Commonwealth is not liable to pay renewable energy shortfall charge, penalty charge or interest charge that is payable under this Act. However, it is the Parliament's intention that the Commonwealth should be notionally liable to pay renewable energy shortfall charge, penalty charge and interest charge.

(2) The Finance Minister may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give directions in relation to the transfer of money within an account, or between accounts, operated by the Commonwealth.

(3) Directions under subsection (2) have effect, and must be complied with, despite any other Commonwealth law.

(4) In subsections (1) and (2):

Commonwealth includes a Commonwealth entity (within the meaning of the *Public Governance, Performance and*

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Accountability Act 2013) that cannot be made liable to taxation by a Commonwealth law.

43 Cancellation of exemptions from charges

(1) This section cancels the effect of a provision of another Act that would have the effect of exempting a person from liability to pay charge payable under this Act.

(2) The cancellation does not apply if the provision of the other Act:
  (a) commences after this section commences; and
  (b) refers specifically to charge payable under this Act.

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Part 5—Statements, certificates and assessments

Division 1AA—Preliminary

43A Overview of Part

This Part deals with various matters relating to the determination of a liable entity's liability to renewable energy shortfall charge.

Subdivision A of Division 1 requires the lodgment of annual energy acquisition statements by liable entities. The entity may surrender renewable energy certificates for the year (or for the quarters of the year) in the statement. The entity may surrender additional certificates in certain circumstances.

Subdivision B of Division 1 requires the lodgment of annual renewable energy shortfall statements by entities that have large-scale generation shortfalls or small-scale technology shortfalls.

Division 1A deals with the issue and amendment of exemption certificates.

Division 2 deals with the assessment of liability to renewable energy shortfall charge, and for the amendment of assessments. It also deals with other related matters.

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Division 1—Statements

Subdivision A—Annual energy acquisition statements

44 Annual energy acquisition statements

(1) A liable entity that acquired electricity under a relevant acquisition during a year (the ***assessment year***) must lodge an energy acquisition statement for the year on or before:

(a) 14 February in the next year; or

(b) any later day allowed by the Regulator.

Note: For amendment of such statements, see section 45A.

(2) The statement must set out:

(a) the name and postal address of the liable entity; and

(b) the amount, in MWh, of electricity acquired by the liable entity under relevant acquisitions during the assessment year; and

(c) whether the liable entity wishes to claim an exemption for the assessment year (see also subsection (3)); and

(d) the large-scale charge information (see subsection (4)); and

(e) the small-scale charge information (see subsection (5)); and

(f) any other information required by the regulations.

(3) If the liable entity wishes to claim an exemption for the assessment year, the statement must be accompanied by:

(a) a copy of each exemption certificate issued to the liable entity for the assessment year in relation to an emissions-intensive trade-exposed activity carried on by the liable entity during the year; and

(b) a copy of each exemption certificate issued to another person in relation to the liable entity for the assessment year and given to the liable entity.

(4) For the purpose of paragraph (2)(d), the ***large-scale charge information*** is:

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(a) the value, in MWh, of large-scale generation certificates being surrendered for the assessment year under section 44A; and

(b) the amount of any carried forward shortfall or carried forward surplus that the liable entity had for the previous year; and

(c) the amount of any carried forward surplus that the liable entity has for the assessment year.

(5) For the purpose of paragraph (2)(e), the ***small-scale charge information*** is:

(a) for each of the quarters of the assessment year—the value, in MWh, of small-scale technology certificates that have been or are being surrendered for the quarter under section 45 during the surrender period for the quarter; and

(b) the amounts of any quarterly surpluses and quarterly shortfalls that the liable entity has for the quarters of the assessment year; and

(c) the amount of any quarterly surplus that the liable entity had for the fourth quarter of the previous year; and

(d) if the Regulator has, under section 38AF, determined an amount that is to apply instead of the previous year's reduced acquisitions—the amount so determined; and

(e) if the Regulator has, under section 38AG, determined an amount that is to apply, for a quarter of the assessment year, as if it were the previous year's reduced acquisitions—the amount so determined for that quarter; and

(f) if section 38AH applies in relation to a quarter of the assessment year—a statement as to whether the liable entity made any relevant acquisitions of electricity in that quarter.

(6) The statement must:

(a) be in a form approved by the Regulator; and

(b) be lodged with the Regulator in accordance with the regulations; and

(c) be signed by or on behalf of the liable entity making the statement.

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44A Surrender of large-scale generation certificates in energy acquisition statement

(1) A liable entity may surrender large-scale generation certificates for a year by including details of the large-scale generation certificates (the ***identified certificates***) that it is surrendering for the year in its energy acquisition statement for the year.

Note: For limitations on the certificates that can be surrendered, see section 45D.

(2) The identified certificates are taken to be surrendered when the energy acquisition statement is lodged, other than any of those certificates that cannot be surrendered because of section 45D.

(3) The Regulator must, by notice in writing given to the liable entity, advise the entity of:

(a) the number of the identified certificates that (taking account of section 45D) are able to be surrendered for the year; and

(b) the fee payable by the entity under section 45E in respect of the surrender of those certificates.

(4) A notice under subsection (3) is not a legislative instrument.

45 Surrender of small-scale technology certificates in quarterly surrender instrument

Surrender of small-scale technology certificates on a quarterly basis

(1) A liable entity may surrender small-scale technology certificates for a quarter of a year by including details of the small-scale technology certificates (the ***identified certificates***) that it is surrendering for the quarter in whichever of the following (the ***surrender instrument***) applies:

(a) for the first, second or third quarter of the year—a notice that:

(i) is in a form approved by the Regulator; and

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(ii) is lodged, before the end of the surrender period for the quarter, in accordance with the regulations; and

(iii) is signed by or on behalf of the liable entity;

(b) for the fourth quarter of the year—the liable entity's energy acquisition statement for the year.

Note: For limitations on the certificates that can be surrendered, see section 45D.

(2) The identified certificates are taken to be surrendered when the surrender instrument is lodged, other than any of those certificates that cannot be surrendered because of section 45D.

Regulator to give liable entity notice relating to surrenders for first, second or third quarter

(3) After the liable entity has lodged the surrender instrument for the first, second or third quarter, the Regulator must, by notice in writing given to the liable entity, advise the liable entity of the number of the identified certificates for the quarter that (taking account of section 45D) are able to be surrendered for the quarter.

Regulator to give liable entity notice relating to total surrenders for the year

(4) After the liable entity has lodged its energy acquisition statement for the year, the Regulator must, by notice in writing given to the liable entity, advise the liable entity of:

(a) the number of the identified certificates for each quarter of the year that (taking account of section 45D) are or were able to be surrendered for the quarter; and

(b) the fee payable by the entity under section 45E in respect of the surrender of those certificates.

Notices are not legislative instruments

(5) A notice under subsection (3) or (4) is not a legislative instrument.

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45A Amending energy acquisition statement at request of liable entity

(1) The Regulator may amend an energy acquisition statement for a year if the liable entity requests, in writing, an amendment within 12 months of lodging the statement.

Note: An amendment of an energy acquisition statement under this section may also result in the Regulator issuing an assessment under section 48 or 48B or amending an assessment under section 49.

(2) If the Regulator refuses to amend an energy acquisition statement under subsection (1) upon a request by a liable entity, the Regulator must notify the entity accordingly.

Amendment to surrender additional certificates

(3) The liable entity may, under subsection (1), request an amendment to its energy acquisition statement for a year to:

(a) surrender additional large-scale renewable energy certificates for the year (subject to section 45D); or

(b) surrender additional small-scale technology certificates for the fourth quarter of the year (subject to section 45D).

Note 1: Small-scale technology certificates for the first 3 quarters of the year are surrendered by notices under paragraph 45(1)(a). Those notices cannot be amended.

Note 2: This subsection does not limit the kinds of amendment that the liable entity may request.

(4) The request must include details of the additional certificates (the ***identified certificates***) that the liable entity wishes to surrender for the year or the quarter.

(5) If the Regulator agrees to the request (in whole or in part) the Regulator must, by notice in writing to the liable entity, advise the entity of:

(a) the number of the identified certificates in relation to which the following subparagraphs are satisfied:

(i) the Regulator agrees to make the amendment to surrender the certificates;

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(ii) the certificates (taking account of section 45D) are able to be surrendered for the year or the quarter; and

(b) the fee payable by the entity under section 45E in respect of the surrender of the certificates (the ***agreed certificates***) in relation to which subparagraphs (a)(i) and (ii) are satisfied.

(6) A notice under subsection (5) is not a legislative instrument.

(7) Subject to subsection (8), the agreed certificates are taken to have been surrendered when the Regulator makes the amendment of the energy acquisition statement.

(8) If the agreed certificates are small-scale technology certificates, then, for the purpose of determining the number of such certificates surrendered by the entity during the surrender period for the fourth quarter, the certificates are taken to have been surrendered during that period.

No amendment to reduce number of certificates surrendered

(9) An energy acquisition statement cannot be amended under this section to reduce the number of certificates previously surrendered.

45B Amending energy acquisition statement on Regulator's own initiative

(1) The Regulator may amend an energy acquisition statement for a year on the Regulator's own initiative if the amendment is made within 4 years of the liable entity lodging the statement.

Note: An amendment of an energy acquisition statement under this section may also result in the Regulator issuing an assessment under section 48 or 48B or amending an assessment under section 49.

(2) The Regulator must give the liable entity written notice of the amendment.

(3) An energy acquisition statement cannot be amended under this section to increase or reduce the number of certificates previously surrendered.

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45C Surrender of additional certificates if energy acquisition statement amended on Regulator's own initiative

(1) This section applies if a liable entity's energy acquisition statement for a year is amended under section 45B so that either of the following, if calculated on the basis of the amounts and other information contained in the statement, is greater than it would have been if the amendment had not been made:

(a) the liable entity's large-scale generation shortfall for the year;

(b) the liable entity's quarterly shortfall for the fourth quarter of the year.

(2) The liable entity may (subject to section 45D) surrender additional certificates for the year or quarter by giving the Regulator a notice (an ***additional surrender notice***) that:

(a) includes details of the certificates (the ***identified certificates***) being surrendered; and

(b) is in a form approved by the Regulator; and

(c) is lodged with the Regulator, in accordance with the regulations, within the period of 30 days beginning on the day on which the liable entity received notice of the amendment; and

(d) is signed by or on behalf of the liable entity.

(3) Subject to subsection (4), the identified certificates are taken to be surrendered when the additional surrender notice is lodged.

(4) If the identified certificates are small-scale technology certificates, then, for the purpose of determining the number of such certificates surrendered by the entity during the surrender period for the fourth quarter, the certificates are taken to have been surrendered during that period.

(5) The Regulator must, by notice in writing given to the liable entity, advise the entity of:

(a) the number of the identified certificates that (taking account of section 45D) are able to be surrendered for the year or quarter; and

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(b) the fee payable by the entity under section 45E in respect of the surrender of those certificates.

(6) A notice under subsection (5) is not a legislative instrument.

45D Limitations on certificates that can be surrendered under this Subdivision

Large-scale generation certificates

(1) A liable entity cannot surrender a large-scale generation certificate for a year under this Subdivision unless:

(a) the certificate was created before the end of the year; and

(b) the liable entity is recorded in the register of large-scale generation certificates as the owner of the certificate at whichever of the following times applies:

(i) for surrender under section 44A—the time when the energy acquisition statement is lodged;

(ii) for surrender under section 45A—the time when the Regulator makes the amendment of the energy acquisition statement;

(iii) for surrender under section 45C—the time when the additional surrender notice is lodged; and

(c) the certificate is valid at the time that applies under paragraph (b).

Small-scale technology certificates

(2) A liable entity cannot surrender a small-scale technology certificate for a quarter of a year under this Subdivision unless:

(a) either:

(i) the liable entity acquired the certificate under Division 4 of Part 2A (purchase of certificates through the clearing house); or

(ii) if subparagraph (i) does not apply—the certificate was created before the end of the year; and

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(b) the liable entity is recorded in the register of small-scale technology certificates as the owner of the certificate at whichever of the following times applies:

(i) for surrender under section 45—the time when the surrender instrument for the quarter is lodged;

(ii) for surrender under section 45A—the time when the Regulator makes the amendment of the energy acquisition statement;

(iii) for surrender under section 45C—the time when the additional surrender notice is lodged; and

(c) the certificate is valid at the time that applies under paragraph (b).

(3) The liable entity cannot surrender a small-scale technology certificate for a quarter of the year under this Subdivision if, at the time that applies under paragraph (2)(b), the certificate is on the clearing house transfer list (see section 30L).

45E Fees for surrender of certificates under this Subdivision

(1) The regulations may prescribe the fee payable for the surrender of a certificate under this Subdivision.

(2) If a liable entity is given a notice under section 44A, 45, 45A or 45C advising the entity of the fee payable in respect of the surrender of certificates, the liable entity must pay the fee within the period of 28 days beginning on the day the entity receives the notice.

(3) If the fee specified in the notice is unpaid at the end of that period of 28 days, it is a debt due to the Commonwealth and is recoverable by the Regulator in a court of competent jurisdiction.

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Subdivision B—Annual renewable energy shortfall statements

46 Annual renewable energy shortfall statements

(1) There are 2 different types of ***renewable energy shortfall statement***:

(a) a ***large-scale generation shortfall statement*** (see subsections (2) and (3)); and

(b) a ***small-scale technology shortfall statement*** (see subsections (4) and (5)).

Large-scale generation shortfall statement

(2) A liable entity that has a large-scale generation shortfall for a year (the ***assessment year***) must lodge a large-scale generation shortfall statement for the year on or before:

(a) 14 February in the next year; or

(b) any later day allowed by the Regulator.

(3) The statement must set out:

(a) the name and postal address of the liable entity; and

(b) the liable entity's large-scale generation shortfall for the assessment year; and

(c) the amount of any carried forward shortfall or carried forward surplus that the liable entity had for the previous year; and

(d) either:

(i) the amount of carried forward shortfall that the liable entity has for the assessment year; or

(ii) the amount of large-scale generation shortfall charge that is payable by the liable entity for the assessment year; and

(e) any other information required by the regulations.

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Small-scale technology shortfall statement

(4) A liable entity that has a small-scale technology shortfall for a year (the ***assessment year***) must lodge a small-scale technology shortfall statement for the year on or before:
  (a) 14 February in the next year; or
  (b) any later day allowed by the Regulator.

(5) The statement must set out:
  (a) the name and postal address of the liable entity; and
  (b) the liable entity's small-scale technology shortfall for the assessment year; and
  (c) the amount of small-scale technology shortfall charge that is payable by the liable entity for the assessment year; and
  (d) any other information required by the regulations.

General requirements for statements

(6) A statement under this section must:
  (a) be in a form approved by the Regulator; and
  (b) be lodged with the Regulator in accordance with the regulations; and
  (c) be signed by or on behalf of the liable entity making the statement.

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Division 1A—Exemption certificates

46A Application for exemption certificate

(1) A prescribed person may apply to the Regulator for a certificate (an ***exemption certificate***) for a year in relation to:

(a) an emissions-intensive trade-exposed activity which is, or is to be, carried on at a site during the year; and

(b) either:

(i) a person who is, or will be, a liable entity from whom electricity is, or will be, acquired for use at the site in the activity; or

(ii) if the prescribed person is, or will be, a liable entity—the prescribed person.

(2) The application must:

(a) be in a form approved by the Regulator; and

(b) include any information prescribed by the regulations; and

(ba) be accompanied by any documents required by the regulations; and

(bb) be accompanied by any report required by the regulations; and

(c) be lodged with the Regulator in the time and manner prescribed by the regulations; and

(d) be signed by or on behalf of the applicant.

(3) The regulations may provide that information required to be included in an application must be verified by statutory declaration.

46B Exemption certificates

(1) If an application is made under section 46A in respect of a year, the Regulator must (subject to section 46E) issue the applicant with an exemption certificate for the year in relation to the liable entity mentioned in the application (as referred to in paragraph 46A(1)(b)). The certificate must:

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(a) in accordance with regulations made for the purpose of subsection (4), specify or describe the amount that is the liable entity's exemption for the year in relation to the emissions-intensive trade-exposed activity and site mentioned in the application; and

(b) set out any other information prescribed by the regulations.

(2) The Regulator must issue the certificate within the period prescribed by the regulations.

(3) A certificate issued under subsection (1) is not a legislative instrument.

(4) The regulations:

(a) must prescribe the method for working out the amount of a liable entity's exemption for a year in relation to an emissions-intensive trade-exposed activity and a site; and

(b) may provide that an exemption certificate may either:

(i) specify the amount that is the liable entity's exemption in relation to the emissions-intensive trade-exposed activity and the site; or

(ii) describe, in some other way, the amount that is the liable entity's exemption in relation to the emissions-intensive trade-exposed activity and the site.

46C Amending exemption certificates

(1) The Regulator may amend an exemption certificate if the person to whom the certificate is issued requests, in writing, an amendment.

(2) In deciding whether to amend an exemption certificate under subsection (1), the Regulator:

(a) must have regard to the matters prescribed by the regulations; and

(b) may have regard to any other matter that it considers relevant.

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(3) The Regulator may also amend an exemption certificate on its own initiative in circumstances prescribed by the regulations.

(4) If the Regulator refuses to amend an exemption certificate upon a request by a person, the Regulator must notify the person accordingly.

Note: An amendment of an exemption certificate under this section may also result in the Regulator issuing an assessment under section 48 or 48B or amending an assessment under section 49.

46D Minister may obtain information from corporation

(1) This section applies to a corporation to which paragraph 51(xx) of the Constitution applies if:

(a) a person (who may be the corporation) has:

(i) indicated to the Commonwealth that the person believes that an activity should be made an emissions-intensive trade-exposed activity; and

(ii) provided information to the Commonwealth in support of that belief that satisfies any requirements of regulations made for the purpose of this paragraph; and

(b) that activity is not an emissions-intensive trade-exposed activity; and

(c) the Minister believes on reasonable grounds that the corporation has information that relates to the activity and that is likely to assist the Commonwealth with either or both of the following:

(i) deciding whether the activity should be made an emissions-intensive trade-exposed activity;

(ii) deciding how any exemption in relation to the activity should be calculated (if the activity is made an emissions-intensive trade-exposed activity).

Request for information and report

(2) The Minister may, by written notice given to the corporation:

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(a) request the corporation to give to the Minister, within the period and in the manner and form specified in the notice, any such information; and

(b) request that the information be accompanied by a report specified in the notice.

(3) A period specified under subsection (2) must not be shorter than 60 days after the notice is given.

Request for information

(4) The Minister may, by written notice given to the corporation, request the corporation to give to the Minister, within the period and in the manner and form specified in the notice, any such information.

(5) A period specified under subsection (4) must not be shorter than 30 days after the notice is given.

46E No exemption certificates to be issued to corporation for 5 years if Minister's request not complied with

(1) This section applies if:

(a) a corporation is given a request under subsection 46D(2) or (4) at a particular time (the ***request time***); and

(b) the corporation is capable of complying with the request; and

(c) the corporation refuses or fails to comply with the request; and

(d) the Minister notifies the Regulator, in writing, that the Minister considers that the non-compliance is significant.

(2) No exemption certificates are to be issued to the corporation in relation to the activity for:

(a) the first year that begins after the request time; and

(b) any of the next 4 years after that year.

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46F Disclosure of information to the Regulator

Scope

(1) This section applies to information obtained under section 46D.

Disclosure

(2) The Minister may disclose the information to the Regulator for the purposes of, or in connection with, the performance of the functions, or the exercise of the powers, of the Regulator under this Act and the regulations.

Other powers of disclosure not limited

(3) This section does not, by implication, limit the Minister's powers to disclose the information to a person other than the Regulator.

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Division 2—Assessments

Subdivision A—Large-scale generation shortfall charge

47 First large-scale generation shortfall statement taken to be assessment of large-scale generation shortfall charge

(1) This section applies if:

(a) a liable entity lodges a large-scale generation shortfall statement for a year (the ***assessment year***); and

(b) a large-scale generation shortfall statement has not previously been lodged, and an assessment of large-scale generation shortfall charge has not previously been made, for the assessment year in relation to the liable entity.

(2) The statement has effect as an assessment of the liable entity's large-scale generation shortfall for the assessment year and of the large-scale generation shortfall charge (if any) payable on the shortfall.

(3) The assessment is taken to have been made on 14 February in the next year or the day on which the statement was lodged, whichever is the later.

(4) The large-scale generation shortfall specified in the statement is taken to be the liable entity's large-scale generation shortfall for the assessment year.

(5) The amount of large-scale generation shortfall charge (if any) specified in the statement is taken to be the amount of large-scale generation shortfall charge payable by the liable entity for the assessment year.

(6) The statement has effect as if it were a notice of assessment signed by the Regulator and given to the liable entity on the day on which the assessment is taken to have been made.

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48 Default assessments of large-scale generation shortfall charge

(1) If a liable entity has lodged an energy acquisition statement for a year but:

(a) the liable entity has not lodged a large-scale generation shortfall statement for the year; and

(b) the Regulator is of the opinion that the liable entity has a large-scale generation shortfall for the year;

the Regulator may make an assessment of the liable entity's large-scale generation shortfall for the year, and of the large-scale generation shortfall charge (if any) payable on the shortfall.

(2) If:

(a) a liable entity has not lodged a large-scale generation shortfall statement for a year; and

(b) the liable entity has also not lodged an energy acquisition statement for the year; and

(c) the Regulator is of the opinion that the liable entity has a large-scale generation shortfall for the year;

the Regulator may make an assessment of the liable entity's large-scale generation shortfall for the year, and of the large-scale generation shortfall charge (if any) payable on the shortfall.

(3) For the purpose of making an assessment under subsection (1) or (2):

(a) the liable entity's large-scale generation shortfall is taken to be the amount that, in the Regulator's opinion, might reasonably be expected to be the shortfall; and

(b) in the case of an assessment under subsection (1)—the Regulator is to take into account any large-scale generation certificates surrendered by the liable entity under Subdivision A of Division 1 for the year; and

(c) in the case of an assessment under subsection (2)—the Regulator is to assume that the liable entity did not surrender any large-scale generation certificates under Subdivision A of Division 1 for the year.

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(4) Large-scale generation shortfall charge in relation to an assessment for a year made under this section is taken to have become payable on 14 February in the next year.

(5) An assessment for a year under this section cannot be made until after 14 February in the next year.

Subdivision B—Small-scale technology shortfall charge

48A First small-scale technology shortfall statement taken to be assessment of small-scale shortfall charge

(1) This section applies if:

(a) a liable entity lodges a small-scale technology shortfall statement for a year (the ***assessment year***); and

(b) a small-scale technology shortfall statement has not previously been lodged, and an assessment of small-scale shortfall charge has not previously been made, for the assessment year in relation to the liable entity.

(2) The statement has effect as an assessment of the liable entity's small-scale technology shortfall for the assessment year and of the small-scale technology shortfall charge payable on the shortfall.

(3) The assessment is taken to have been made on 14 February in the next year or the day on which the statement was lodged, whichever is the later.

(4) The small-scale technology shortfall specified in the statement is taken to be the liable entity's small-scale technology shortfall for the assessment year.

(5) The amount of small-scale technology shortfall charge specified in the statement is taken to be the amount of small-scale technology shortfall charge payable by the liable entity for the assessment year.

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(6) The statement has effect as if it were a notice of assessment signed by the Regulator and given to the liable entity on the day on which the assessment is taken to have been made.

48B Default assessments of small-scale technology shortfall charge

(1) If a liable entity has lodged an energy acquisition statement for a year but:

(a) the liable entity has not lodged a small-scale technology shortfall statement for the year; and

(b) the Regulator is of the opinion that the liable entity has a small-scale technology shortfall for the year;

the Regulator may make an assessment of the liable entity's small-scale technology shortfall for the year, and of the small-scale technology shortfall charge payable on the shortfall.

(2) If:

(a) a liable entity has not lodged a small-scale technology shortfall statement for a year; and

(b) the liable entity has also not lodged an energy acquisition statement for the year; and

(c) the Regulator is of the opinion that the liable entity has a small-scale technology shortfall for the year;

the Regulator may make an assessment of the liable entity's small-scale technology shortfall for the year, and of the small-scale technology shortfall charge payable on the shortfall.

(3) For the purpose of making an assessment under subsection (1) or (2):

(a) the liable entity's small-scale technology shortfall is taken to be the amount that, in the Regulator's opinion, might reasonably be expected to be the shortfall; and

(b) the Regulator is to take into account any small-scale technology certificates surrendered by the liable entity for any of the quarters of the year under Subdivision A of Division 1.

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(4) Small-scale technology shortfall charge in relation to an assessment for a year made under this section is taken to have become payable on 14 February in the next year.

(5) An assessment for a year under this section cannot be made until after 14 February in the next year.

Subdivision C—Other provisions relating to assessments

49 Amendment of assessments

(1) The Regulator may, subject to this section, at any time amend any assessment by making any alterations or additions that the Regulator thinks necessary, whether or not renewable energy shortfall charge has been paid in relation to the assessment.

Note: This Division does not apply in relation to an assessment under section 102: see section 53A.

(2) Subject to this section, if there has been an avoidance of renewable energy shortfall charge, the Regulator may:

(a) if the Regulator is of the opinion that the avoidance of the charge is due to fraud or evasion—at any time; or

(b) in any other case—within 4 years from the day on which the assessment is made;

amend the assessment by making any alterations or additions that the Regulator thinks necessary to correct the assessment.

(3) Subject to subsection (5), an amendment effecting a reduction in a liable entity's liability under an assessment is not effective unless it is made within 4 years from the day on which the assessment was made.

(4) If an assessment has, under this section, been amended in any particular, the Regulator may, within 4 years from the day on which renewable energy shortfall charge became payable under the amended assessment, make, in or in relation to the particular, any further amendment in the assessment that, in the Regulator's opinion, is necessary to effect such reduction in the liable entity's liability under the assessment as is just.

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(5) If:

(a) a liable entity applies for an amendment of the liable entity's assessment within 4 years from the day that renewable energy shortfall charge became payable under the assessment; and

(b) within that period, the liable entity lodges all information the Regulator needs to decide the application;

the Regulator may amend the assessment when considering the application, even if that period has elapsed.

(6) Nothing in this section prevents the amendment of an assessment to give effect to:

(a) a decision on any review or appeal; or

(b) a decision to reduce any particular following the liable entity's objection or pending any review or appeal.

(7) Renewable energy shortfall charge under an amended assessment is taken to have become payable:

(a) if the amendment is wholly or partly as a result of an error by the Regulator—on the day on which the amended assessment is made; or

(b) in any other case—on the day on which charge under the original assessment became payable.

50 Refund of overpaid amounts

(1) If, because an assessment is amended, a person's liability to renewable energy shortfall charge is reduced:

(a) the amount by which the charge is reduced is taken, for the purposes of section 70, never to have been payable; and

(b) the Regulator must:

(i) refund any overpaid amount; or

(ii) apply any overpaid amount against the person's liability (if any) to the Commonwealth and refund any part of the amount that is not so applied.

(2) In subsection (1):

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overpaid amount includes any overpaid amount of penalty charge or interest charge.

51 Amended assessment to be an assessment

Except as otherwise expressly provided by this Act, an amended assessment is taken to be an assessment for all the purposes of this Act.

52 Notice of assessment

As soon as practicable after an assessment is made under section 48 or 48B or is amended under section 49, the Regulator must give written notice of the assessment or amendment (as the case may be) to the liable entity concerned.

53 Validity of assessment

The validity of an assessment is not affected because any provision of this Act has not been complied with.

53A Application of Division

This Division does not apply in relation to an assessment under section 102.

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Part 6—Objections, reviews and appeals

Division 1—Objections to and review of assessments

54 Objections

(1) A liable entity who is dissatisfied with an assessment may object in the manner set out in this Division.

(2) This Division does not apply in relation to an assessment under section 102.

Note: However, a person may seek review of a decision to make an assessment under section 102: see Division 2.

55 How objections are to be made

A liable entity making an objection must:

(a) make it in writing; and

(b) lodge it with the Regulator within 60 days after the assessment is made; and

(c) state in it, fully and in detail, the grounds that the liable entity relies on.

56 Limited objection rights in the case of certain amended assessments

If the objection is made against an amended assessment, then a liable entity's right to object against the amended assessment is limited to a right to object against alterations or additions made as part of the amendment of the assessment.

57 Requests for extension of time

(1) If the 60 days specified in paragraph 55(b) have passed, the liable entity may nevertheless lodge the objection with the Regulator

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together with a written request asking the Regulator to deal with the objection as if it had been lodged within the 60 days.

(2) The request must state fully and in detail the circumstances concerning, and the reasons for, the liable entity's failure to lodge the objection with the Regulator within the 60 days.

(3) After considering the request, the Regulator must decide whether to agree to it or refuse it.

(4) The Regulator must give the liable entity written notice of the Regulator's decision.

(5) If the Regulator decides to agree to the request, then, for the purposes of this Part, the objection is taken to have been lodged with the Regulator within the 60 days.

(6) If the Regulator decides to refuse the request, the liable entity may apply to the Administrative Appeals Tribunal for review of the decision.

58 Regulator to decide objections

(1) If the objection has been lodged with the Regulator within the 60 days, the Regulator must decide whether to:
  (a) allow it, wholly or in part; or
  (b) disallow it.

(2) Such a decision is in this Part called an ***objection decision***.

(3) The Regulator must cause to be served on the liable entity written notice of the Regulator's objection decision.

59 Person may require Regulator to make an objection decision

(1) This section applies if the objection has been lodged with the Regulator within the 60 days and the Regulator has not made an objection decision by whichever is the later of the following times:
  (a) the end of the period (the ***original 60-day period***) of 60 days after whichever is the later of the following days:

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(i) the day on which the objection is lodged with the Regulator;

(ii) if the Regulator decides under section 57 to agree to a request in relation to the objection—the day on which the decision is made;

(b) if the Regulator, by written notice served on the liable entity within the original 60-day period, requires the liable entity to give information relating to the objection—the end of the period of 60 days after the Regulator receives that information.

(2) The liable entity may give the Regulator a written notice requiring the Regulator to make an objection decision.

(3) If the Regulator has not made an objection decision by the end of the period of 60 days after being given the notice, then, at the end of that period, the Regulator is taken to have made a decision under subsection 58(1) to disallow the objection.

60 Liable entity may seek review of, or appeal against, Regulator's decision

If the liable entity is dissatisfied with the Regulator's objection decision, the liable entity may either:

(a) apply to the Administrative Appeals Tribunal for review of the decision; or

(b) appeal to the Federal Court against the decision.

Note: Time limits for making applications to the Administrative Appeals Tribunal, and matters related to procedures before that Tribunal are set out in the *Administrative Appeals Tribunal Act 1975*.

61 Grounds of objection and burden of proof

In proceedings under this Part on a review before the Administrative Appeals Tribunal or on appeal to the Federal Court:

(a) the liable entity is, unless the Administrative Appeals Tribunal or the Federal Court otherwise orders, limited to the grounds stated in the objection; and

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(b) the burden of proving that a prescribed decision is incorrect, or that an assessment is excessive, lies on the liable entity.

62 Time limit for appeals

An appeal to the Federal Court against an objection decision must be lodged with the Court within 60 days after the liable entity appealing is served with notice of the decision.

63 Order of Federal Court on objection decision

Where the Federal Court hears an appeal against an objection decision under section 60, the Court may make such order in relation to the decision as it thinks fit, including an order confirming or varying the decision.

64 Implementation of Federal Court order in respect of objection decision

(1) When the order of the Federal Court in relation to the decision becomes final, the Regulator must, within 60 days, take such action, including amending any assessment or determination concerned, as is necessary to give effect to the decision.

(2) For the purposes of subsection (1):

(a) if the order is made by the Federal Court constituted by a single Judge and no appeal is lodged against the order within the period for lodging an appeal—the order becomes final at the end of the period; and

(b) if the order is made by the Full Court of the Federal Court and no application for special leave to appeal to the High Court against the order is made within the period of 30 days after the order is made—the order becomes final at the end of the period.

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65 Pending appeal not to affect implementation of decisions

The fact that an appeal is pending in relation to a decision does not in the meantime interfere with, or affect, the decision and any renewable energy shortfall charge, penalty charge, interest charge or other amount may be recovered as if no appeal were pending.

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Division 2—Review of other decisions

66 Review of decisions

(1) An affected person in relation to a reviewable decision may request that the Regulator reconsider the decision. The following table sets out the reviewable decisions and, for each decision, sets out the provision under which it is made and the affected person in relation to it.

Table of reviewable decisions

Item	For a decision ...	made under ...	the affected person is ...
1	to refuse to register a person	section 11	the person.
1A	in relation to an application under section 12A (about provisional accreditation of power stations)	section 12B	the applicant.
2	in relation to an application for accreditation of a power station	section 14	the applicant for accreditation.
3	to refuse to accredit a power station	section 15	the applicant for accreditation.
3A	to amend, or to refuse to amend, an electricity generation return	section 20A	the nominated person for the accredited power station concerned.
4	not to register a certificate	section 26	the person who created the certificate.
5	to suspend a person's registration	section 30 or 30A	the registered person.

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Table of reviewable decisions

Item	For a decision ...	made under ...	the affected person is ...
5A	to refuse to approve a person as the nominated person for an accredited power station	section 30B	the person.
5B	to vary, or to refuse to vary, a determination under paragraph 14(1)(a)	section 30C	the nominated person for the accredited power station concerned.
5C	to suspend the accreditation of an accredited power station	section 30D or 30E	the nominated person for the power station.
5D	to vary the 1997 eligible renewable power baseline for an accredited power station	section 30F	the nominated person for the power station.
5DA	to vary the 2008 WCMG limit for an accredited power station	section 30G	the nominated person for the power station
5DB	to refuse to determine an amount, or to determine an amount that is different from the proposed amount	section 38AF or 38AG	the applicant for a determination.
5E	to amend, or to refuse to amend, an energy acquisition statement	section 45A or 45B	the liable entity concerned.
5F	to amend, or to refuse to amend, an exemption certificate	section 46C	the person to whom the certificate is issued.
6	assessing penalty charge	section 102	the liable entity that is liable to pay the penalty charge.
7	not to remit, or to remit only a part of, penalty charge	section 103	the liable entity that is liable to pay the penalty charge.

(2) The request must be:

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(a) in writing; and
(b) given to the Regulator within 60 days of the making of the decision.

(3) The Regulator must reconsider the decision and confirm, vary or set aside the decision.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires the person to be notified of the person's review rights.

(4) The Regulator is taken to have confirmed the decision under subsection (3) if the Regulator does not give written notice of the Regulator's decision under that subsection within 60 days of the request.

(5) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the Regulator under subsection (3) to confirm, vary or set aside the decision.

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Part 7—Collection and recovery of charge

Division 1—General rules about collection and recovery

67 When renewable energy shortfall charge is payable

Large-scale generation shortfall charge

(1) Large-scale generation shortfall charge for a year is payable:

(a) if, on or before 14 February in the next year, the liable entity lodges a large-scale generation shortfall statement for that year—on that day; or

(b) if, after that day, the liable entity lodges a large-scale generation shortfall statement for that year—on the day on which the statement is lodged.

Note: For when large-scale generation shortfall charge is payable if the liable entity does not lodge a large-scale generation shortfall statement, see subsection 48(4).

Small-scale technology shortfall charge

(2) Small-scale technology shortfall charge for a year is payable:

(a) if, on or before 14 February in the next year, the liable entity lodges a small-scale technology shortfall statement for that year—on that day; or

(b) if, after that day, the liable entity lodges a small-scale technology shortfall statement for that year—on the day on which the statement is lodged.

Note: For when small-scale technology shortfall charge is payable if the liable entity does not lodge a small-scale technology shortfall statement, see subsection 48B(4).

68 When penalty charge becomes due and payable

Penalty charge becomes payable on the day specified for the purpose in the notice of assessment of that charge.

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69 Extension of time for payment

The Regulator may, in such circumstances as the Regulator thinks fit, extend the time for payment of an amount of a renewable energy shortfall charge related liability for such period as the Regulator determines, and, if the Regulator does so, the charge is payable accordingly.

70 Penalty for unpaid renewable energy shortfall charge or unpaid penalty charge

Unpaid renewable energy shortfall charge

(1) If an amount (the ***unpaid amount***) of renewable energy shortfall charge which a liable entity is liable to pay is not paid by the time by which it is due to be paid, the liable entity is liable to pay, by way of penalty, interest charge on the whole of the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the amount of the renewable energy shortfall charge was due to be paid; and

(b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:

(i) the renewable energy shortfall charge;

(ii) interest charge on any of the renewable energy shortfall charge.

Unpaid penalty charge

(2) If an amount (the ***unpaid amount***) of penalty charge which a liable entity is liable to pay is not paid by the time by which it is due to be paid, the liable entity is liable to pay, by way of penalty, interest charge on the whole of the unpaid amount for each day in the period that:

(a) started at the beginning of the day by which the amount of the penalty charge was due to be paid; and

(b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:

(i) the penalty charge;

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(ii) interest charge on any of the penalty charge.

Amount of interest charge

(3) The amount of the interest charge for a day is worked out by multiplying the unpaid amount by the general interest charge rate for the day.

When interest charge becomes due and payable

(4) The interest charge for a day is due and payable at the end of that day.

71 Recovery of renewable energy shortfall charge related liability

(1) A renewable energy shortfall charge related liability that is payable:
  (a) is a debt due to the Commonwealth; and
  (b) payable to the Regulator in the manner and at the place prescribed.

(2) The Regulator may sue in his or her official name in a court of competent jurisdiction to recover an amount of a renewable energy shortfall charge related liability that remains unpaid after it has become due and payable.

72 Service of documents if a person is absent from Australia or cannot be found

(1) This section applies if a document needs to be served on a person in respect of a proceeding to recover an amount of a renewable energy shortfall charge related liability, and the Regulator, after making reasonable inquiries, is satisfied that:
  (a) the person is absent from Australia and does not have any agent in Australia on whom the document can be served; or
  (b) the person cannot be found.

(2) The Regulator may, without the court's leave, serve the document by posting it, or a sealed copy of it, in a letter addressed to the

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person at any Australian address of the person (including the person's Australian place of business or residence) that is last known to the Regulator.

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Division 2—Special rules about collection and recovery

Subdivision A—Recovery from a third party

73 Regulator may collect amounts from third party

Amount recoverable under this Subdivision

(1) This Subdivision applies if any of the following amounts (the ***debt***) is payable to the Commonwealth by a person (the ***debtor***) (whether or not the debt has become due and payable):

(a) an amount of a renewable energy shortfall charge related liability;

(b) a judgment debt for a renewable energy shortfall charge related liability;

(c) costs for such a judgment debt;

(d) an amount that a court has ordered the debtor to pay to the Regulator following the debtor's conviction for an offence against this Act, or following the making of a civil penalty order against the debtor.

Regulator may give notice to a person

(2) The Regulator may give a written notice to a person (the ***third party***) under this section if the third party owes or may later owe money to the debtor.

Third party regarded as owing money in these circumstances

(3) The third party is taken to owe money (the ***available money***) to the debtor if the third party:

(a) is a person by whom the money is due or accruing to the debtor; or

(b) holds the money for, or on account of, the debtor; or

(c) holds the money on account of some other person for payment to the debtor; or

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(d) has authority from some other person to pay the money to the debtor.

The third party is so taken to owe the money to the debtor even if:

(e) the money is not due, or is not so held, or payable under the authority, unless a condition is fulfilled; and

(f) the condition has not been fulfilled.

How much is payable under the notice

(4) A notice under this section must:

(a) require the third party to pay to the Regulator the lesser of, or a specified amount not exceeding the lesser of:

(i) the debt; or

(ii) the available money; or

(b) if there will be amounts of the available money from time to time—require the third party to pay to the Regulator a specified amount, or a specified percentage, of each amount of the available money, until the debt is satisfied.

When amount must be paid

(5) The notice must require the third party to pay an amount under paragraph (4)(a), or each amount under paragraph (4)(b):

(a) immediately after; or

(b) at or within a specified time after;

the amount of the available money concerned becomes an amount owing to the debtor.

Debtor must be notified

(6) The Regulator must send a copy of the notice to the debtor.

Setting-off amounts

(7) If a person other than the third party has paid an amount to the Regulator that satisfies all or part of the debt:

(a) the Regulator must notify the third party of that fact; and

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(b) any amount that the third party is required to pay under the notice is reduced by the amount so paid.

74 Notice to Commonwealth, State or Territory

If the third party is the Commonwealth, a State or a Territory, the Regulator may give the notice to a person who:

(a) is employed by the Commonwealth, or by the State or Territory (as appropriate); and

(b) has the duty of disbursing public money under a law of the Commonwealth, or of the State or Territory (as appropriate).

75 Indemnity

An amount that the third party pays to the Regulator under this Subdivision is taken to have been authorised by:

(a) the debtor; and

(b) any other person who is entitled to all or a part of the amount;

and the third party is indemnified for the payment.

76 Offence

(1) The third party must not fail to comply with the Regulator's notice.

Penalty: 30 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

(2) The court may, in addition to imposing a penalty on a person convicted of an offence against subsection (1) in relation to failing to pay an amount under the notice, order the person to pay to the Regulator an amount not exceeding that amount.

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Subdivision B—Recovery from liquidator

77 Liquidator's obligation

(1) This Subdivision applies to a person who becomes a liquidator of a company that is, or has been, a liable entity.

(2) Within 14 days after becoming liquidator, the liquidator must give written notice of that fact to the Regulator.

(3) The Regulator must, as soon as practicable, notify the liquidator of the amount (the ***notified amount***) that the Regulator considers is enough to discharge any outstanding renewable energy shortfall charge related liabilities that the company has when the notice is given.

(4) The liquidator must not, without the Regulator's permission, part with any of the company's assets before receiving the Regulator's notice.

(5) However, subsection (4) does not prevent the liquidator from parting with the company's assets to pay debts of the company not covered by either of the following paragraphs:

(a) the outstanding renewable energy shortfall charge related liabilities;

(b) any debts of the company which:

(i) are unsecured; and

(ii) are not required, by an Australian law, to be paid in priority to some or all of the other debts of the company.

(6) After receiving the Regulator's notice, the liquidator must set aside, out of the assets available for paying amounts covered by paragraph (5)(a) or (b) (the ***ordinary debts***), assets with a value calculated using the formula:

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$$\text{Total value of assets available to pay ordinary debts} \times \left[\frac{\text{Notified amount}}{\text{Notified amount} + \text{Amount of remaining ordinary debts}} \right]$$

where:

amount of remaining ordinary debts means the sum of the company's ordinary debts other than the outstanding renewable energy shortfall charge related liabilities.

(7) The liquidator must, in his or her capacity as liquidator, discharge the outstanding renewable energy shortfall charge related liabilities, to the extent of the value of the assets that the liquidator is required to set aside.

(8) The liquidator is personally liable to discharge the liabilities, to the extent of that value, if the liquidator contravenes this section.

78 Offence

The liquidator must not fail to comply with subsection 77(2), (4), (6) or (7).

Penalty: 30 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

79 Joint liability of 2 or more liquidators

If there are 2 or more persons who become liquidators of the company, the obligations and liabilities under this Subdivision:

(a) apply to all the liquidators; but

(b) may be discharged by any of them.

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80 Liquidator's other obligation or liability

This Subdivision does not reduce any obligation or liability of a liquidator arising elsewhere.

Subdivision C—Recovery from receiver

81 Receiver's obligation

(1) This Subdivision applies if:
  (a) a person (the ***receiver***), in the capacity of receiver, or of receiver and manager, takes possession of a company's assets for the company's debenture holders; and
  (b) the company is, or has been, a liable entity.

(2) Within 14 days after taking possession of the assets, the receiver must give written notice of that fact to the Regulator.

(3) The Regulator must, as soon as practicable, notify the receiver of the amount (the ***notified amount***) that the Regulator considers is enough to discharge any outstanding renewable energy shortfall charge related liabilities that the company has when the notice is given.

(4) The receiver must not, without the Regulator's permission, part with any of the company's assets before receiving the Regulator's notice.

(5) However, subsection (4) does not prevent the receiver from parting with the company's assets to pay debts of the company not covered by either of the following paragraphs:
  (a) the outstanding renewable energy shortfall charge related liabilities;
  (b) any debts of the company which:
    (i) are unsecured; and
    (ii) are not required, by an Australian law, to be paid in priority to some or all of the other debts of the company.

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(6) After receiving the Regulator's notice, the receiver must set aside, out of the assets available for paying amounts covered by paragraph (5)(a) or (b) (the ***ordinary debts***), assets with a value calculated using the formula:

$$\text{Total value of assets available to pay ordinary debts} \times \left[\frac{\text{Notified amount}}{\text{Notified amount} + \text{Amount of remaining ordinary debts}} \right]$$

where:

amount of remaining ordinary debts means the sum of the company's ordinary debts other than the outstanding renewable energy shortfall charge related liabilities.

(7) The receiver must, in his or her capacity as receiver, or as receiver and manager, discharge the outstanding renewable energy shortfall charge related liabilities, to the extent of the value of the assets that the receiver is required to set aside.

(8) The receiver is personally liable to discharge the liabilities, to the extent of that value, if the receiver contravenes this section.

82 Offence

The receiver must not fail to comply with subsection 81(2), (4), (6) or (7).

Penalty: 30 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

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83 Joint liability of 2 or more receivers

If 2 or more persons (the ***receivers***) take possession of a company's assets, for the company's debenture holders, in the capacity of receiver, or of receiver and manager, the obligations and liabilities under this Subdivision apply to:

(a) all the receivers; but

(b) may be discharged by any of them.

84 Receiver's other obligation or liability

This Subdivision does not reduce any obligation or liability of the receiver or receivers arising elsewhere.

Subdivision D—Recovery from agent winding up business for non-resident principal

85 Obligation of agent winding up business for non-resident principal

(1) This Subdivision applies to an agent whose principal:

(a) is not an Australian resident; and

(b) has instructed the agent to wind up so much of the principal's business as is carried on in Australia; and

(c) is, or has been, a liable entity.

(2) Within 14 days after receiving the instructions, the agent must give written notice of that fact to the Regulator.

(3) The Regulator must, as soon as practicable after receiving the notice, notify the agent of the amount (the ***notified amount***) that the Regulator considers is enough to discharge any outstanding renewable energy shortfall charge related liabilities that the principal has when the notice is given.

(4) Before receiving the Regulator's notice, the agent must not, without the Regulator's permission, part with any of the principal's

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assets that are available for discharging the outstanding renewable energy shortfall charge related liabilities.

(5) After receiving the notice, the agent must set aside:

(a) out of the assets available for discharging the outstanding renewable energy shortfall charge related liabilities, assets to the value of the notified amount; or

(b) all of the assets so available, if their value is less than the notified amount.

(6) The agent must, in that capacity, discharge the outstanding renewable energy shortfall charge related liabilities, to the extent of the value of the assets that the agent is required to set aside.

(7) The agent is personally liable to discharge the liabilities, to the extent of that value, if the agent contravenes this section.

86 Offence

A person must not fail to comply with subsection 85(2), (4), (5) or (6).

Penalty: 30 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of penalty units.

87 Joint liability of 2 or more agents

If 2 or more agents are jointly instructed by the principal to wind up the business, the obligations and liabilities under this Subdivision:

(a) apply to all the agents; but

(b) may be discharged by any of them.

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88 Agent's other obligation or liability

This Subdivision does not reduce any obligation or liability of the agent or agents arising elsewhere.

Subdivision E—Recovery from deceased person's estate

89 Administered estate

(1) This section applies if:
  (a) a person has an outstanding renewable energy shortfall charge related liability when the person dies; and
  (b) either of the following is granted after the death:
    (i) probate of the person's will;
    (ii) letters of administration of the person's estate.

(2) The Regulator may, in respect of the liability, deal with the trustee of the deceased person's estate as if:
  (a) the deceased person were still alive; and
  (b) the trustee were the deceased person.

(3) Without limiting subsection (2), the trustee must:
  (a) provide any statement and other information that the deceased person was liable to provide, or would have been liable to provide if he or she were still alive; and
  (b) provide any other information relating to the liability that the Regulator requires; and
  (c) in the trustee's representative capacity, discharge the liability and any penalty imposed in respect of the liability under this Act for which the deceased person would be liable if he or she were still alive.

(4) If:
  (a) the amount of the liability requires an assessment under this Act but the assessment has not been made; and

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(b) the trustee fails to provide a statement or other information in relation to assessing that amount as required by the Regulator;

the Regulator may assess that amount. If the Regulator does so, the assessment has the same effect as if it were made under this Act.

(5) A trustee who is dissatisfied with an assessment under subsection (4) may object in the manner set out in Division 1 of Part 6.

(6) Division 1 of Part 6 applies in relation to the objection as if the trustee were the deceased person.

90 Unadministered estate

(1) This section applies if neither of the following is granted within 6 months after a person's death:
(a) probate of the person's will;
(b) letters of administration of the person's estate.

(2) The Regulator may determine the total amount of outstanding renewable energy shortfall charge related liabilities that the person had at the time of death.

(3) The Regulator must publish notice of the determination twice in a daily newspaper circulating in the State or Territory in which the person resided at the time of death.

(4) A notice of the determination is conclusive evidence of the outstanding renewable energy shortfall charge related liabilities, unless the determination is amended.

(5) A person who is dissatisfied with the determination may object in the manner set out in Division 1 of Part 6 if the person:
(a) claims an interest in the estate; or
(b) is granted probate of the deceased person's will or letters of administration of the estate.

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(6) Division 1 of Part 6 applies in relation to the objection as if the person making it were the deceased person.

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Division 3—Other matters

91 What this Division is about

This Division deals with a person's right to recover from another person an amount paid in discharge of a renewable energy shortfall charge related liability if:

- the person has paid the amount for or on behalf of the other person; or
- the persons are jointly liable to pay the amount.

92 Right of recovery if another person is liable

A person who has paid an amount of a renewable energy shortfall charge related liability for or on behalf of another person may:

(a) recover that amount from the other person as a debt (together with the costs of recovery) in a court of competent jurisdiction; or

(b) retain or deduct the amount out of money held by the person that belongs to, or is payable to, the other person.

93 Right of contribution if persons are jointly liable

(1) If 2 or more persons are jointly liable to pay an amount of a renewable energy shortfall charge related liability, they are each liable for the whole of the amount.

(2) If one of the persons has paid an amount of the liability, the person may recover in a court of competent jurisdiction, as a debt, from another of those persons:

(a) an amount equal to so much of the amount paid; and

(b) an amount equal to so much of the costs of recovery under this section;

as the court considers just and equitable.

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94 Regulator may authorise amount to be recovered

(1) The Regulator may, in writing, authorise a person (the ***authorised person***) to recover:

(a) the total amount of the outstanding renewable energy shortfall charge related liabilities of a deceased person as determined under section 90 (about unadministered estates); and

(b) any reasonable costs incurred by the authorised person in recovering that amount;

by seizing and disposing of any property of the deceased person.

(2) The authorised person may seize and dispose of the property as prescribed by the regulations.

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Part 8—Refunding large-scale generation shortfall charge

95 Refunding large-scale generation shortfall charge in later years

(1) This Part applies where:

(a) a liable entity has paid large-scale generation shortfall charge for a year (the ***charge year***); and

(b) during the allowable refund period, the liable entity surrenders large-scale generation certificates under this section.

(2) The ***allowable refund period*** starts immediately after the liable entity lodges the liable entity's large-scale generation shortfall statement for the year after the charge year and ends 3 years after the liable entity paid the large-scale generation shortfall charge.

(3) The liable entity must specify the charge year in respect of which the large-scale generation certificates are being surrendered.

96 Value of certificates surrendered

(1) The ***certificate value*** for a large-scale generation certificate surrendered under section 95 is equal to the large-scale generation shortfall charge payable in respect of 1 MWh in the charge year specified under subsection 95(3).

(2) The total of the certificate values of large-scale generation certificates surrendered by a liable entity under section 95 in respect of a year must not exceed the amount of large-scale generation shortfall charge paid by the liable entity for that year.

97 Certificates can only be surrendered if there is no shortfall

A liable entity may only surrender large-scale generation certificates under section 95 if, in the year immediately prior to the

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year in which the certificates are to be surrendered, the liable entity did not have a large-scale generation shortfall.

98 Refund of charge where certificates surrendered

If a liable entity surrenders large-scale generation certificates under section 95, the Regulator must pay the liable entity the amount worked out using the formula:

Certificate value – Administration fee

where:

administration fee is the amount worked out under the regulations.

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Part 9—Penalty charge

99 Penalty charge for failure to provide statements or information relevant to large-scale generation shortfall charge

(1) A liable entity, other than a government body, is liable to pay, by way of penalty, penalty charge if the liable entity refuses or fails to provide, when and as required under this Act any of the following for a year (the ***assessment year***):

(a) an energy acquisition statement for the assessment year;

(b) a large-scale generation shortfall statement for the assessment year;

(c) information relevant to assessing the liable entity's liability to pay large-scale generation shortfall charge for the assessment year.

Note: If the liable entity refuses or fails to lodge an energy acquisition statement, the liable entity is also liable to penalty charge under section 99A.

(2) A liable entity is liable to pay, by way of penalty, penalty charge if:

(a) the liable entity is liable to pay large-scale generation shortfall charge for a year (the ***assessment year***); and

(b) the liable entity fails to keep a record in relation to the assessment year containing details of the basis of calculation of the following amounts that were specified in the liable entity's energy acquisition statement for the assessment year:

(i) the amount of electricity acquired under relevant acquisitions during the assessment year;

(ii) the value, in MWh, of large-scale generation certificates surrendered for the assessment year;

(iii) any carried forward shortfall or carried forward surplus for the previous year;

(iv) any carried forward surplus for the assessment year.

(3) A liable entity is liable to pay, by way of penalty, penalty charge if:

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(a) the liable entity is liable to pay large-scale generation shortfall charge for a year (the ***assessment year***); and

(b) the liable entity refuses or fails to produce to the Regulator, when and as required by the Regulator under this Act, a document containing details of the basis of calculation of the amounts referred to in paragraph (2)(b) that were specified in an energy acquisition statement for the assessment year.

(4) Subject to subsection (5), the penalty charge payable under subsection (1), (2) or (3) is equal to double the amount of large-scale generation shortfall charge payable by the entity for the assessment year.

(5) If a liable entity has already become liable to penalty charge under this section because of a particular refusal or failure that relates to a year, the liable entity is not liable to any further amount of penalty charge under this section because of any other refusal or failure that relates to the same year.

99A Penalty charge for failure to provide statements or information relevant to small-scale technology shortfall charge

(1) A liable entity, other than a government body, is liable to pay, by way of penalty, penalty charge if the liable entity refuses or fails to provide, when and as required under this Act any of the following for a year (the ***assessment year***):

(a) an energy acquisition statement for the assessment year;

(b) a small-scale technology shortfall statement for the assessment year;

(c) information relevant to assessing the liable entity's liability to pay small-scale technology shortfall charge for the assessment year.

Note: If the liable entity refuses or fails to lodge an energy acquisition statement, the liable entity is also liable to penalty charge under section 99.

(2) A liable entity is liable to pay, by way of penalty, penalty charge if:

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(a) the liable entity is liable to pay small-scale technology shortfall charge for a year (the ***assessment year***); and

(b) the liable entity fails to keep a record in relation to the assessment year containing details of the basis of calculation of the following amounts that were specified in the liable entity's energy acquisition statement for the assessment year:

(i) the amount of electricity acquired under relevant acquisitions during the assessment year;

(ii) the value, in MWh, of small-scale technology certificates surrendered for the quarters of the assessment year.

(3) A liable entity is liable to pay, by way of penalty, penalty charge if:

(a) the liable entity is liable to pay small-scale technology shortfall charge for a year (the ***assessment year***); and

(b) the liable entity refuses or fails to produce to the Regulator, when and as required by the Regulator under this Act, a document containing details of the basis of calculation of the amounts referred to in paragraph (2)(b) that were specified in an energy acquisition statement for the assessment year.

(4) Subject to subsection (5), the penalty charge payable under subsection (1), (2) or (3) is equal to double the amount of small-scale technology shortfall charge payable by the entity for the assessment year.

(5) If a liable entity has already become liable to penalty charge under this section because of a particular refusal or failure that relates to a year, the liable entity is not liable to any further amount of penalty charge under this section because of any other refusal or failure that relates to the same year.

100 False or misleading statements

(1) If:

(a) a liable entity other than a government body:

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(i) makes a statement that is false or misleading in a material particular to a person for a purpose connected with this Act; or

(ii) omits from a statement made to a person for a purpose connected with this Act anything without which the statement is misleading in a material particular; and

(b) the renewable energy shortfall charge properly payable by the liable entity exceeds the renewable energy shortfall charge that would have been payable by the liable entity if it were assessed on the basis that the statement were not false or misleading;

the liable entity is liable to pay, by way of penalty, penalty charge equal to double the amount of the excess referred to in paragraph (b).

(2) A reference in this section to a statement made to a person for a purpose connected with this Act is a reference to a statement made orally, in writing, in a data processing device or in any other form and, for example, includes a statement:

(a) made in an objection, statement or other document lodged with, given to or prepared for the person; and

(b) made in answer to a question asked by the person; and

(c) made in any information provided to the person.

101 Penalty charge where arrangement to avoid renewable energy shortfall charge

If, under section 41, a liable entity is liable to pay an amount of renewable energy shortfall charge (the ***amount payable***) that is greater than the amount that would have been payable if section 41 had not applied to the liable entity (the ***notional amount***), the liable entity is also liable to pay, by way of penalty, penalty charge worked out using the formula:

$$2 \times \left[\text{Amount payable} - \text{Notional amount} \right]$$

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102 Assessment of penalty charge

(1) The Regulator must make an assessment of the penalty charge payable by a liable entity under this Part and must, as soon as practicable after the assessment is made, give written notice of the assessment to the liable entity.

(2) Nothing in this Act is taken to prevent a notice from being incorporated in a notice of any other assessment made in relation to the liable entity under this Act.

103 Remitting penalty charge

The Regulator may remit all or part of the penalty charge payable by a liable entity under this Part, but, for the purposes of applying subsection 33(1) of the *Acts Interpretation Act 1901* to the power of remission conferred by this section, nothing in this Act is taken to prevent the exercise of the power at a time before an assessment is made of the penalty charge.

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Part 10—Administration

104 General administration of Act

The Regulator has the general administration of this Act.

105 Annual report

After the end of each year, the Regulator must give the Minister a report on the working of this Act during the year for presentation to the Parliament.

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Part 11—Audit

Division 1—Overview

106 Overview of Part

This Part provides a regime for the audit of the affairs of registered persons and liable entities in so far as they relate to this Act.

Division 2 provides for the appointment of authorised officers to undertake audit functions and for the issue of identification for such persons.

Division 3 sets out the powers of authorised officers and Division 4 sets out the obligations imposed on authorised officers in the exercise of those powers.

Division 5 deals with an occupier's rights and responsibilities in circumstances where an authorised officer seeks to exercise audit powers.

Division 6 deals with the procedure for obtaining, and the nature of, monitoring warrants.

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Division 2—Appointment of authorised officers and identity cards

107 Appointment of authorised officers

(1) The Regulator may, in writing, appoint a member of the staff of the Regulator to be an authorised officer for the purposes of this Part.

(1A) The Regulator may, in writing, also appoint any of the following persons to be an authorised officer for the purposes of this Part:

(a) any other person who is appointed or employed by the Commonwealth;

(b) a person who is appointed or employed by a State or a Territory.

(2) The Regulator is not to appoint a person as an authorised officer unless the Regulator is satisfied that the person is of sufficient maturity, and has had sufficient training, to properly exercise the powers of an authorised officer.

(3) In exercising powers or performing functions as an authorised officer, an authorised officer must comply with any directions of the Regulator.

108 Identity cards

(1) The Regulator must issue an identity card to an authorised officer in the form prescribed by the regulations. The identity card must contain a recent photograph of the authorised officer.

(2) An authorised officer must carry the identity card at all times when exercising powers or performing functions as an authorised officer.

109 Offences related to identity cards

A person commits an offence if:

(a) the person has been issued with an identity card; and

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(b) the person ceases to be an authorised officer; and

(c) the person does not, immediately after so ceasing, return the identity card to the Regulator.

Penalty: 1 penalty unit.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Division 3—Powers of authorised officer

Subdivision A—Monitoring powers

110 Entry to premises

(1) For the purposes of substantiating information provided under this Act or the regulations or of determining whether this Act or the regulations have been complied with, an authorised officer may:
  (a) enter any premises at any reasonable time of the day; and
  (b) exercise the monitoring powers set out in section 111.

(2) An authorised officer is not authorised to enter premises under subsection (1) unless:
  (a) the premises are business premises, the occupier of the premises has consented to the entry and the officer has shown his or her identity card if required by the occupier; or
  (b) the entry is made under a monitoring warrant.

(3) If an authorised officer is on the premises with the consent of the occupier, the authorised officer must leave the premises if the occupier asks the authorised officer to do so.

111 Monitoring powers of authorised officers

(1) For the purposes of this Part, the following are the monitoring powers that an authorised officer may exercise in relation to premises under section 110:
  (a) the power to search the premises for any thing on the premises that may relate to the creation or transfer of certificates or relevant acquisitions of electricity;
  (b) the power to examine any activity conducted on the premises that may relate to information provided for the purposes of this Act or the regulations;

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(c) the power to examine any thing on the premises that may relate to information provided for the purposes of this Act or the regulations;

(d) the power to take photographs or make video or audio recordings or sketches on the premises of any such activity or thing;

(e) the power to inspect any document on the premises that may relate to information provided for the purposes of this Act or the regulations;

(f) the power to take extracts from, or make copies of, any such document;

(g) the power to take onto the premises such equipment and materials as the authorised officer requires for the purpose of exercising powers in relation to the premises;

(h) the power to secure a thing that:

(i) is found during the exercise of monitoring powers on the premises; and

(ii) an authorised officer believes on reasonable grounds affords evidence of the commission of an offence against this Act or the *Crimes Act 1914*, or of the contravention of a civil penalty provision; and

(iii) the authorised officer believes on reasonable grounds would be lost, destroyed or tampered with before a warrant can be obtained;

until a warrant is obtained to seize the thing;

(i) the powers in subsections (2) and (3).

(2) For the purposes of this Part, ***monitoring powers*** include the power to operate equipment at premises to see whether:

(a) the equipment; or

(b) a disk, tape or other storage device that:

(i) is at the premises; and

(ii) can be used with the equipment or is associated with it;

contains information that is relevant to substantiating information provided under this Act or the regulations.

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(3) For the purposes of this Part, ***monitoring powers*** include the following powers in relation to information described in subsection (2) found in the exercise of the power under that subsection:

(a) the power to operate facilities at the premises to put the information in documentary form and copy the documents so produced;

(b) the power to operate facilities at the premises to transfer the information to a disk, tape or other storage device that:

(i) is brought to the premises for the exercise of the power; or

(ii) is at the premises and the use of which for the purpose has been agreed in writing by the occupier of the premises;

(c) the power to remove from the premises a disk, tape or other storage device to which the information has been transferred in exercise of the power under paragraph (b).

Subdivision B—Power of authorised officer to ask questions and seek production in certain circumstances

112 Authorised officer may request or require persons to answer questions etc.

Requesting

(1) If the authorised officer was only authorised to enter premises because the occupier of the premises consented to the entry—the authorised officer may request the occupier to:

(a) answer any questions related to the creation or transfer of certificates, relevant acquisitions of electricity or the provision of information under this Act or the regulations that are put by the authorised officer; and

(b) produce any document requested by the authorised officer that is so related.

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Requiring

(2) If the authorised officer was authorised to enter the premises by a monitoring warrant—the authorised officer has power to require any person in or on the premises to:

(a) answer any questions related to the creation or transfer of certificates, relevant acquisitions of electricity or the provision of information under this Act or the regulations that are put by the authorised officer; and

(b) produce any document requested by the authorised officer that is so related.

113 Failure to provide information to authorised officer

(1) A person commits an offence if the person refuses or fails to comply with a requirement under subsection 112(2).

Penalty: Imprisonment for 6 months.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(2) A person is excused from complying with a requirement of subsection 112(2) if the answer to the question or the production of the document might tend to incriminate the person or expose the person to a penalty.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2), see subsection 13.3(3) of the *Criminal Code*.

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Division 4—Obligations and incidental powers of authorised officers

116 Authorised officer must produce identity card on request

An authorised officer is not entitled to exercise any powers under this Part in relation to premises if:

(a) the occupier of the premises requires the authorised officer to produce his or her identity card for inspection by the occupier; and

(b) the authorised officer fails to comply with the requirement.

117 Consent

(1) Before obtaining the consent of a person for the purposes of paragraph 110(2)(a), the authorised officer must inform the person that he or she may refuse consent.

(2) An entry of an authorised officer by virtue of the consent of a person is not lawful unless the person voluntarily consented to the entry.

118 Announcement before entry

An authorised officer executing a monitoring warrant must, before entering premises under the warrant:

(a) announce that he or she is authorised to enter the premises; and

(b) give any person at the premises an opportunity to allow entry to the premises.

119 Details of monitoring warrant to be given to occupier etc. before entry

(1) If a monitoring warrant is being executed and the occupier of the warrant premises or another person who apparently represents the

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occupier is present at the premises, the authorised officer must make available to that person a copy of the warrant.

(2) The authorised officer must identify himself or herself to that person.

(3) The copy of the warrant referred to in subsection (1) need not include the signature of the magistrate who issued the warrant.

Note: Monitoring warrants are issued under section 125.

120 Use of electronic equipment in exercising monitoring powers

(1) An authorised officer or a person assisting that officer may operate electronic equipment already at premises in order to exercise monitoring powers if he or she believes, on reasonable grounds, that the operation of the equipment can be carried out without damage to the equipment.

(2) If the authorised officer or a person assisting that officer believes, on reasonable grounds, that:

(a) there is on the premises material relating to information supplied under this Act or the regulations that may be accessible by operating electronic equipment on the premises; and

(b) expert assistance is required to operate the equipment; and

(c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with;

he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard, or otherwise.

(3) The authorised officer or a person assisting that officer must give notice to the occupier of the premises of his or her intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.

(4) The equipment may be secured:

(a) for a period not exceeding 24 hours; or

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(b) until the equipment has been operated by the expert;

whichever first happens.

(5) If an authorised officer or a person assisting that officer believes, on reasonable grounds, that the expert assistance will not be available within 24 hours, he or she may apply to a magistrate for an extension of the period.

(6) The authorised officer or a person assisting that officer must give notice to the occupier of the premises of his or her intention to apply for an extension and the occupier is entitled to be heard in relation to that application.

(7) The provisions of this Part relating to the issue of monitoring warrants apply, with such modifications as are necessary, to the issue of an extension.

(8) In this section:

premises means:

(a) premises that an authorised officer has entered, and remains on, with the consent of the occupier; and

(b) warrant premises.

121 Compensation for damage to electronic equipment

(1) If:

(a) damage is caused to equipment as a result of it being operated as mentioned in section 120; and

(b) the damage was caused as a result of:

(i) insufficient care being exercised in selecting the person who was to operate the equipment; or

(ii) insufficient care being exercised by the person operating the equipment;

compensation for the damage is payable to the owner of the equipment.

(2) The Regulator must pay the owner such reasonable compensation as the owner and the Regulator agree on. If the Regulator and the

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owner fail to agree, the owner may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.

(3) Compensation is payable out of money appropriated by the Parliament.

(4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and his or her employees and agents, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

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Division 5—Occupier's rights and responsibilities

122 Occupier entitled to be present during execution of monitoring warrant

(1) If a monitoring warrant is being executed and the occupier of the warrant premises, or another person who apparently represents the occupier, is present at the premises, the person is entitled to observe the execution of the warrant.

(2) The right to observe the execution of the warrant ceases if the person impedes that execution.

(3) This section does not prevent the execution of the warrant in 2 or more areas of the premises at the same time.

123 Occupier to provide authorised officer with all facilities and assistance

The occupier of warrant premises, or another person who apparently represents the occupier, must provide the officer executing the warrant and any person assisting that officer with all reasonable facilities and assistance for the effective exercise of their powers.

124 Offences related to warrants

A person commits an offence if the person fails to comply with the obligation set out in section 123.

Penalty: 10 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Division 6—Warrants

125 Monitoring warrants

(1) An authorised officer may apply to a magistrate for a warrant under this section in relation to premises.

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that one or more authorised officers should have access to the premises for the purposes of substantiating information provided under this Act or the regulations or of determining whether this Act or the regulations have been complied with.

(3) The magistrate must not issue the warrant unless the authorised officer or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

(4) The warrant must:

(a) authorise one or more authorised officers (whether or not named in the warrant), with such assistance and by such force as is necessary and reasonable:

(i) to enter the premises; and

(ii) to exercise the powers set out in section 111 in relation to the premises; and

(b) state whether the entry is authorised to be made at any time of the day or during specified hours of the day; and

(c) specify the day (not more than 6 months after the issue of the warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

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Part 11A—Information-gathering powers

125A Regulator may obtain information and documents

(1) This section applies to a person if the Regulator has reason to believe that the person:

(a) has information or a document that is relevant to the operation of this Act; or

(b) is capable of giving evidence which the Regulator has reason to believe is relevant to the operation of this Act.

(2) The Regulator may, by written notice given to the person, require the person:

(a) to give to the Regulator, within the period and in the manner and form specified in the notice, any such information; or

(b) to produce to the Regulator, within the period and in the manner specified in the notice, any such documents; or

(c) if the person is an individual—to appear before the Regulator at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents; or

(d) if the person is a body corporate—to cause a competent officer of the body to appear before the Regulator at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents.

(3) A notice under subsection (2) must set out the effect of:

(a) subsection (4); and

(b) section 125E; and

(c) sections 137.1 and 137.2 of the *Criminal Code*.

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for giving false or misleading information or documents.

(4) A person commits an offence if:

(a) the person is given a notice under this section; and

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(b) the person fails to comply with the notice.

Penalty for contravention of this subsection: 20 penalty units.

125B Self-incrimination

(1) An individual is not excused from giving information or evidence or producing a document under this Part on the ground that the information or evidence or the production of the document might tend to incriminate the individual or expose the individual to a penalty.

(2) However:

(a) the information or evidence given or the document produced; or

(b) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document;

is not admissible in evidence against the individual in criminal proceedings, or proceedings for a civil penalty order, other than:

(c) proceedings for an offence against subsection 125A(4) or section 125E; or

(d) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (about false or misleading information or documents) that relates to this Part.

125C Copies of documents

The Regulator may inspect a document produced under this Part and may make and retain copies of, or take and retain extracts from, such a document.

125D Regulator may retain documents

(1) The Regulator may take, and retain for as long as is necessary, possession of a document produced under this Part.

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(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Regulator to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Regulator must, at such times and places as the Regulator thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

125E False or misleading evidence

A person commits an offence if:

(a) the person gives evidence to another person; and

(b) the person does so knowing that the evidence is false or misleading in a material particular; and

(c) the evidence is given in compliance or purported compliance with section 125A.

Penalty: Imprisonment for 12 months.

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Part 12—Publication of information

134 Regulator may publish certain information

Information relating to large-scale generation shortfall charge

(1) The Regulator may publish:

(a) a list of each liable entity that has a large-scale generation shortfall for a particular year; and

(b) both of the following:

(i) the amount of each liable entity's large-scale generation shortfall for that year;

(ii) the proportion of that shortfall relative to the liable entity's required large-scale renewable energy for that year; and

(c) the total of the large-scale generation shortfalls for that year.

Information relating to small-scale technology shortfall charge

(2) The Regulator may publish:

(a) a list of each liable entity that has a small-scale technology shortfall for a particular year; and

(b) the amount of each liable entity's small-scale technology shortfall for that year; and

(c) the total of the small-scale technology shortfalls for that year.

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Part 13—Registers

Division 1—General

135 Registers to be maintained

The Regulator must maintain the following registers:

(a) the register of registered persons;

(b) the register of accredited power stations;

(c) the register of large-scale generation certificates;

(ca) the register of small-scale technology certificates;

(d) the register of applications for accredited power stations.

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Division 2—The register of registered persons

136 Contents of register of registered persons

(1) The register of registered persons is to contain:
  (a) the name of each registered person; and
  (b) the registration number for each person; and
  (c) any other information that the Regulator considers appropriate.

(2) The register must also contain the following information about any person whose registration is suspended:
  (a) the name of the person;
  (b) the person's registration number;
  (c) the period for which the registration is suspended;
  (d) any other information that the Regulator considers appropriate.

137 Form of register

(1) The register must be maintained by electronic means.

(2) The register is to be made available for inspection on the internet.

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Division 3—The register of accredited power stations

138 Contents of register of accredited power stations

The register of accredited power stations is to contain:

(a) the name of each accredited power station; and

(b) the name of the nominated person for the accredited power station; and

(c) the identification code for each accredited power station; and

(ca) the 1997 eligible renewable power baseline for each power station (including any variation of that baseline under section 30F); and

(cb) for each power station for which there is a 2008 WCMG limit—the limit (including any variation of that limit under section 30G); and

(d) any other information that the Regulator considers appropriate.

139 Form of register

(1) The register must be maintained by electronic means.

(2) The register is to be made available for inspection on the internet.

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Division 4—The register of large-scale generation certificates

140 Contents of register of large-scale generation certificates

The register of large-scale generation certificates is to contain:

(a) the unique identification code of each valid large-scale generation certificate; and

(b) the year in which the certificate was created; and

(c) the name of the person who created the certificate; and

(d) the name of the current registered owner, and each previous registered owner, of each certificate; and

(da) the eligible energy source or sources in respect of which the certificate was created; and

(e) any other information that the Regulator considers appropriate.

141 Form of register

(1) The register must be maintained by electronic means.

(2) The register is to be made available for inspection on the internet.

(3) The Regulator must ensure that the register is kept up-to-date.

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Division 4A—The register of small-scale technology certificates

141AA Contents of register of small-scale technology certificates

The register of small-scale technology certificates is to contain:

(a) the unique identification code of each valid small-scale technology certificate; and

(b) the year in which the certificate was created; and

(c) if the certificate was created otherwise than by the Regulator under section 30P:

(i) the name of the person who created the certificate; and

(ii) a statement that the certificate was created in relation to a solar water heater other than an air source heat pump water heater, or that it was created in relation to an air source heat pump water heater, or that it was created in relation to a small generation unit (as appropriate); and

(d) if the certificate was created by the Regulator under section 30P—a statement to that effect; and

(e) the name of the current registered owner, and each previous registered owner, of each certificate; and

(f) any other information that the Regulator considers appropriate.

141AB Form of register

(1) The register must be maintained by electronic means.

(2) The register is to be made available for inspection on the internet.

(3) The Regulator must ensure that the register is kept up-to-date.

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Division 5—The register of applications for accredited power stations

141A Contents of register of applications for accredited power stations

The register of applications for accredited power stations is to contain:

(a) the name of each applicant for an accredited power station; and

(b) the location of the power station; and

(c) the eligible energy source or sources proposed to be used by the power station; and

(d) any other information that the Regulator considers appropriate.

141B Form of register

(1) The register must be maintained by electronic means.

(2) The register is to be made available for inspection on the internet.

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Part 15—Offences for failure to provide documents

154 Failure to provide documents

(1) A person commits an offence if:

(a) the person is required under this Act (other than section 46D) or the regulations to provide a document (including a statement or return) to the Regulator or to another person within a specified time or by a specified date; and

(b) the person does not provide the document by the specified time or the specified date (as the case requires).

Penalty: 30 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains general principles relating to penalties.

Note 2: For strict liability, see section 6.1 of the *Criminal Code*.

(3) A person commits an offence if:

(a) the person is required under this Act (other than section 46D) or the regulations to provide a document (including a statement or return) to the Regulator or to another person within a specified time or by a specified date; and

(b) the person does not provide the document by the specified time or the specified date (as the case requires).

Penalty: 6 months imprisonment.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Part 15A—Civil penalties

Division 1—Civil penalty orders

154A Definitions

(1) In this Division:

Court means:

(a) the Federal Court; or

(b) the Federal Circuit and Family Court of Australia (Division 2); or

(c) the Supreme Court of a State or Territory; or

(d) a District Court or County Court of a State.

(2) The jurisdiction conferred by this Division on the Supreme Court of a Territory is conferred to the extent that the Constitution permits.

154B Civil penalty orders

Court may make civil penalty order

(1) If a Court is satisfied that a person has contravened a civil penalty provision, the Court may order the person to pay the Commonwealth a pecuniary penalty.

(2) An order under subsection (1) is to be known as a ***civil penalty order***.

Amount of penalty for contravention of subsection 24A(1)

(3) The pecuniary penalty for a contravention by an individual of subsection 24A(1) must not be more than the greater of:

(a) 1 penalty unit for each renewable energy certificate to which the contravention relates, up to a maximum of 10,000 penalty units; and

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(b) 100 penalty units.

(4) The pecuniary penalty for a contravention by a body corporate of subsection 24A(1) must not be more than the greater of:

(a) 5 penalty units for each renewable energy certificate to which the contravention relates, up to a maximum of 50,000 penalty units; and

(b) 500 penalty units.

Amount of penalty for contravention of subsection 154N(1)

(5) The pecuniary penalty for a contravention, by an executive officer of a body corporate, of subsection 154N(1) must not be more than the maximum pecuniary penalty that could be imposed on the officer under this section if the officer had committed the contravention referred to in paragraph 154N(1)(a).

Amount of penalty for contravention of any other civil penalty provision

(6) The pecuniary penalty for a contravention by a person of a civil penalty provision, other than subsection 24A(1) or 154N(1), must not be more than:

(a) if the person is an individual—100 penalty units; or

(b) if the person is a body corporate—500 penalty units.

Matters to be taken into account by Court in determining amount of penalty

(7) In determining the pecuniary penalty, in accordance with this section, for a contravention by a person of a civil penalty provision, the Court may have regard to all relevant matters, including:

(a) the nature and extent of the contravention; and

(b) the nature and extent of any loss or damage suffered as a result of the contravention; and

(c) the circumstances in which the contravention took place; and

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(d) whether the person has previously been found by a court in proceedings under this Act to have engaged in any similar conduct; and

(e) the extent to which the person has cooperated with the authorities; and

(f) if the person is a body corporate:

(i) the level of the employees, officers or agents of the body corporate involved in the contravention; and

(ii) whether the body corporate exercised due diligence to avoid the contravention; and

(iii) whether the body corporate had a corporate culture conducive to compliance; and

(g) if the contravention is of subsection 24A(1)—whether the person has surrendered any renewable energy certificates under section 28A to compensate for the contravention.

Civil enforcement of penalty

(8) A pecuniary penalty is a civil debt payable to the Commonwealth. The Commonwealth may enforce the civil penalty order as if it were an order made in civil proceedings against the person to recover a debt due by the person. The debt arising from the order is taken to be a judgment debt.

154C Who may apply for a civil penalty order

(1) Only the Regulator may apply for a civil penalty order.

(2) Subsection (1) does not exclude the operation of the *Director of Public Prosecutions Act 1983*.

154D Two or more proceedings may be heard together

The Court may direct that 2 or more proceedings for civil penalty orders are to be heard together.

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154E Time limit for application for an order

Proceedings for a civil penalty order may be started no later than 6 years after the contravention.

154F Civil evidence and procedure rules for civil penalty orders

The Court must apply the rules of evidence and procedure for civil matters when hearing proceedings for a civil penalty order.

154G Civil proceedings after criminal proceedings

The Court must not make a civil penalty order against a person for a contravention of a civil penalty provision if the person has been convicted of an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.

154H Criminal proceedings during civil proceedings

(1) Proceedings for a civil penalty order against a person for a contravention of a civil penalty provision are stayed if:
  (a) criminal proceedings are started or have already been started against the person for an offence; and
  (b) the offence is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.

(2) The proceedings for the order may be resumed if the person is not convicted of the offence. Otherwise, the proceedings for the order are dismissed.

154J Criminal proceedings after civil proceedings

Criminal proceedings may be started against a person for conduct that is substantially the same as conduct constituting a contravention of a civil penalty provision regardless of whether a civil penalty order has been made against the person.

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154K Evidence given in proceedings for a civil penalty order not admissible in criminal proceedings

Evidence of information given, or evidence of production of documents, by an individual is not admissible in criminal proceedings against the individual if:

(a) the individual previously gave the evidence or produced the documents in proceedings for a civil penalty order against the individual for a contravention of a civil penalty provision (whether or not the order was made); and

(b) the conduct alleged to constitute the offence is substantially the same as the conduct that was claimed to constitute the contravention.

However, this does not apply to a criminal proceeding in respect of the falsity of the evidence given by the individual in the proceedings for the civil penalty order.

154L Mistake of fact

(1) A person is not liable to have a civil penalty order made against the person for a contravention of a civil penalty provision if:

(a) at or before the time of the conduct constituting the contravention, the person:

(i) considered whether or not facts existed; and

(ii) was under a mistaken but reasonable belief about those facts; and

(b) had those facts existed, the conduct would not have constituted a contravention of the civil penalty provision.

(2) For the purposes of subsection (1), a person may be regarded as having considered whether or not facts existed if:

(a) the person had considered, on a previous occasion, whether those facts existed in the circumstances surrounding that occasion; and

(b) the person honestly and reasonably believed that the circumstances surrounding the present occasion were the

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same, or substantially the same, as those surrounding the previous occasion.

(3) A person who wishes to rely on subsection (1) or (2) in proceedings for a civil penalty order bears an evidential burden in relation to that matter.

154M State of mind

Scope

(1) This section applies to proceedings for a civil penalty order against a person for a contravention of any of the following civil penalty provisions:
  (a) subsection 24A(1);
  (b) subsection 24B(1).

State of mind

(2) In the proceedings, it is not necessary to prove:
  (a) the person's intention; or
  (b) the person's knowledge; or
  (c) the person's recklessness; or
  (d) the person's negligence; or
  (e) any other state of mind of the person.

(3) Subsection (2) does not affect the operation of section 154L.

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Division 2—Liability of executive officers of bodies corporate

154N Civil penalties for executive officers of bodies corporate

(1) If:

(a) a body corporate contravenes a civil penalty provision; and

(b) an executive officer of the body corporate knew that, or was reckless or negligent as to whether, the contravention would occur; and

(c) the officer was in a position to influence the conduct of the body corporate in relation to the contravention; and

(d) the officer failed to take all reasonable steps to prevent the contravention;

the officer contravenes this subsection.

(2) For the purposes of subsection (1), the officer is ***reckless*** as to whether the contravention would occur if:

(a) the officer is aware of a substantial risk that the contravention would occur; and

(b) having regard to the circumstances known to the officer, it is unjustifiable to take the risk.

(3) For the purposes of subsection (1), the officer is ***negligent*** as to whether the contravention would occur if the officer's conduct involves:

(a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and

(b) such a high risk that the contravention would occur;

that the conduct merits the imposition of a pecuniary penalty.

Civil penalty provision

(4) Subsection (1) is a ***civil penalty provision***.

Note: Division 1 provides for pecuniary penalties for breaches of civil penalty provisions.

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154P Reasonable steps to prevent contravention

(1) For the purposes of section 154N, in determining whether an executive officer of a body corporate failed to take all reasonable steps to prevent a contravention, a court may have regard to all relevant matters, including:

(a) what action (if any) the officer took directed towards ensuring the following (to the extent that the action is relevant to the contravention):

(i) that the body corporate arranges regular professional assessments of the body corporate's compliance with civil penalty provisions;

(ii) that the body corporate implements any appropriate recommendations arising from such an assessment;

(iii) that the body corporate's employees, agents and contractors have a reasonable knowledge and understanding of the requirements to comply with civil penalty provisions in so far as those requirements affect the employees, agents or contractors concerned; and

(b) what action (if any) the officer took when he or she became aware of the contravention.

(2) This section does not limit section 154N.

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Part 15B—Other remedies

Division 1—Enforceable undertakings

154Q Acceptance of undertakings

(1) The Regulator may accept any of the following undertakings:

(a) a written undertaking given by a person that the person will, in order to comply with this Act, the regulations or the associated provisions, take specified action;

(b) a written undertaking given by a person that the person will, in order to comply with this Act, the regulations or the associated provisions, refrain from taking specified action;

(c) a written undertaking given by a person that the person will take specified action directed towards ensuring that the person does not contravene this Act, the regulations or the associated provisions, or is unlikely to contravene this Act, the regulations or the associated provisions, in the future;

(d) a written undertaking given by a person that the person will surrender one or more renewable energy certificates under section 28A, to compensate for the creation of one or more certificates that the person was not entitled to create.

(2) The undertaking must be expressed to be an undertaking under this section.

(3) The person may withdraw or vary the undertaking at any time, but only with the consent of the Regulator.

(4) The Regulator may, by written notice given to the person, cancel the undertaking.

(5) The Regulator must publish the undertaking on its website.

(6) In this section:

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associated provisions means sections 134.1, 134.2, 135.1, 135.2, 135.4, 136.1, 137.1 and 137.2 of the *Criminal Code*, in so far as those sections relate to:

(a) this Act; or

(b) the regulations.

154R Enforcement of undertakings

(1) If:

(a) a person has given an undertaking under section 154Q; and

(b) the undertaking has not been withdrawn or cancelled; and

(c) the Regulator considers that the person has breached the undertaking;

the Regulator may apply to the Federal Court for an order under subsection (2).

(2) If the Federal Court is satisfied that the person has breached the undertaking, the court may make any or all of the following orders:

(a) an order directing the person to comply with the undertaking;

(b) an order directing the person to pay to the Regulator, on behalf of the Commonwealth, an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;

(c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;

(d) any other order that the court considers appropriate.

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Division 2—Injunctions

154S Injunctions

(1) If a person has engaged, is engaging, or is about to engage in any conduct that is or would be:

(a) an offence against this Act or the regulations; or

(b) a contravention of a civil penalty provision;

the Federal Court may, on the application of the Regulator or any other aggrieved person, grant an injunction restraining the person from engaging in the conduct.

(2) If:

(a) a person has refused or failed, is refusing or failing, or is about to refuse or fail, to do a thing; and

(b) the refusal or failure is, or would be:

(i) an offence against this Act or the regulations; or

(ii) a contravention of a civil penalty provision;

the Federal Court may, on the application of the Regulator or any other aggrieved person, grant an injunction requiring the person to do the thing.

(3) The power of the Federal Court to grant an injunction may be exercised:

(a) whether or not it appears to the Court that the person intends to engage, or to continue to engage, in conduct of that kind; and

(b) whether or not the person has previously engaged in conduct of that kind.

(4) The Federal Court may discharge or vary an injunction granted under this section.

(5) The Federal Court may grant an interim injunction pending a determination of an application under subsection (1).

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(6) The powers granted by this section are in addition to, and not in derogation of, any other powers of the Federal Court.

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Part 16—Miscellaneous

155 Contracting outsiders

The Regulator, on behalf of the Commonwealth, may engage any person under contract to assist in the performance of any function of the Regulator.

156 Delegation

Delegation to senior officers of the Regulator

(1) The Regulator may, by writing, delegate to one or more senior officers of the Regulator any or all of the Regulator's functions or powers under this Act.

Delegation to senior employees of an authorised Commonwealth contractor

(2) The Regulator may, by writing, delegate to one or more senior employees of an authorised Commonwealth contractor any or all of the Regulator's functions or powers under this Act, other than the function referred to in:

(a) sections 30, 38AF, 38AG, 41, 48, 48B, 49, 105, 107 and 108; and

(b) Parts 6, 7, 9, 11, 12, 14, 15A and 15B.

Delegate subject to direction of Regulator

(3) A delegate is, in the performance of a function delegated under subsection (1) or (2), or in the exercise of a power delegated under subsection (1) or (2), subject to the directions of the Regulator.

157 Appropriation

Payments under this Act are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

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159 Evidence

(1) The mere production of:

(a) a notice of assessment; or

(b) a document signed by an official of the Regulator purporting to be a copy of a notice of assessment;

is conclusive evidence of the due making of the assessment and, except in proceedings under Division 1 of Part 6 on a review or appeal relating to the assessment, that the amounts and all of the particulars of the assessment are correct.

(2) A document signed by an official of the Regulator purporting to be a copy of a document issued or given by the Regulator is prima facie evidence that the second-mentioned document was so issued or given.

(3) A document signed by an official of the Regulator purporting to be a copy of, or an extract from, a renewable energy shortfall statement or a notice of assessment is evidence of the matter set out in the document to the same extent as the original statement or notice, as the case may be, would be if it were produced.

(4) A certificate signed by an official of the Regulator certifying that a sum specified in the certificate was, on the day of the certificate, payable by a person in relation to an amount of a renewable energy shortfall charge related liability, is prima facie evidence of the matters stated in the certificate.

(5) An energy acquisition statement or a renewable energy shortfall statement purporting to be made or signed by or on behalf of a liable entity is evidence that the statement was made by the liable entity or with the liable entity's authority.

160 Records to be kept and preserved by registered persons, liable entities and holders of exemption certificates

(1) A person (the ***record-keeper***) who:

(a) is a registered person; or

(b) is a liable entity; or

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(c) has been issued with an exemption certificate;

must keep records that record and explain all transactions and other acts engaged in, or required to be engaged in, by the record-keeper under this Act.

(2) The records kept by a registered person must include any documents relevant to ascertaining:

(a) the amount of electricity generated by the registered person during a year; and

(b) the amount of that electricity that was generated from eligible energy sources; and

(c) details of all large-scale generation certificates and small-scale technology certificates issued by the registered person during the year; and

(d) any other prescribed matter.

(3) The records kept by a liable entity must include any documents relevant to ascertaining:

(a) the amount of electricity acquired by the liable entity under relevant acquisitions during a year; and

(b) any other prescribed matter.

(3A) The records kept by a person who has been issued with an exemption certificate must include any documents relevant to ascertaining:

(a) a matter to which the certificate relates; and

(b) any other prescribed matter.

(4) The records must be kept:

(a) in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language; and

(b) in the case of records kept by a liable entity—so that the liable entity's liability under this Act can be readily ascertained; and

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(c) in the case of records kept by a person who has been issued with an exemption certificate—so that matters to which the certificate relates can be readily ascertained.

(5) A record-keeper who has possession of any records kept or obtained under or for the purposes of this Act must retain them until the end of 5 years after those records were prepared or obtained, or the completion of the transactions or acts to which those records relate, whichever is later.

(6) Nothing in this section requires a record-keeper to retain records if:

(a) the Regulator has notified the record-keeper that the retention of the records is not required; or

(b) the record-keeper is a company that has gone into liquidation and been finally dissolved.

(7) A person commits an offence if the person fails to comply with a requirement under this section.

Penalty: 30 penalty units.

160A Prescribing matters by reference to other instruments

(1) The regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an instrument or writing:

(a) as in force or existing at a particular time; or

(b) as in force or existing from time to time.

(2) Subsection (1) has effect despite anything in subsection 14(2) of the *Legislation Act 2003*.

(3) If the regulations make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an instrument or writing, the Regulator must ensure that the text of the matter applied, adopted or incorporated is published on its website.

(4) Subsection (3) does not apply if the publication would infringe copyright.

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160B Administrative decisions under the regulations

The regulations may make provision in relation to a matter by conferring a power to make a decision of an administrative character on the Regulator.

161 Regulations

The Governor-General may make regulations prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, may make regulations prescribing penalties not exceeding a fine of 50 penalty units for offences against the regulations.

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Part 17—Application of Act to 2001

163 Object of Part

The object of this Part is:

(a) not to apply this Act to the period of 3 months commencing on 1 January 2001; but

(b) to apply this Act to the period of 9 months commencing on 1 April 2001 as if that period were the whole of the year commencing on 1 January 2001.

This means that the Act does not apply to electricity generated before 1 April 2001.

164 Modification of references to a year

This Act applies in relation to the year commencing on 1 January 2001 as if all references to a year, to the extent that they are references to the year commencing on 1 January 2001 (including specific references to the year commencing on 1 January 2001), were references to the period of 9 months commencing on 1 April 2001.

165 Modification of other references

This Act applies in relation to the year commencing on 1 January 2001 as if the reference in section 39 to "31 March in the year" were a reference to "30 June in the year".

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Renewable Energy (Electricity) Act 2000	174, 2000	21 Dec 2000	18 Jan 2001 (s 2)	
Renewable Energy (Electricity) Amendment Act 2006	90, 2006	30 June 2006	Sch 1: 11 Sept 2006 (s 2(1) item 2) Remainder: 30 June 2015 (s 2(1) item 1)	Sch 1 (items 193–207)
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Sch 1 (items 109–112): 23 June 2008 (s 2(1) item 4)	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 1 (items 41–45): 18 Jan 2001 (s 2(1) item 29)	—
Australian Energy Market Amendment (AEMO and Other Measures) Act 2009	17, 2009	26 Mar 2009	Sch 1 (items 7–11): 1 July 2009 (s 2(1) item 3)	—
Renewable Energy (Electricity) Amendment Act 2009	78, 2009	7 Sept 2009	Sch 3 (items 1, 2): 1 July 2011 (s 2 (1) item 4) Sch 3 (items 3, 5): 8 Sept 2009 (s 2 (1) item 5) Sch 3 (items 4, 8, 9): 1 Feb 2010 (s 2 (1) item 6) Sch 3 (items 6, 7): 18 Apr 2010 (s 2(1) item 8) Remainder: 7 Sept 2009 (s 2(1) item 1)	Sch 1 (item 7), Sch 2 (item 22) and Sch 3 (items 3–9)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (item 137(a)): 1 Mar 2010 (s 2(1) items 31, 38)	—
Renewable Energy (Electricity) Amendment Act 2010	69, 2010	28 June 2010	Sch 1 (items 1–99): 1 Jan 2011 (s 2(1) item 2) Sch 1 (items 99A–136) and Sch 2: 29 June 2010 (s 2(1) items 2, 3)	Sch 2
as amended by				
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 2 (item 32): 1 Jan 2011 (s 2(1) item 24)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 987–990) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 7, 12)	Sch 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (items 154–157): 1 July 2011 (s 2(1) item 2)	—
Financial Framework Legislation Amendment Act (No. 1) 2011	89, 2011	4 Aug 2011	Sch 5: 4 Aug 2011 (s 2(1) item 5)	Sch 5 (item 2)
Clean Energy (Consequential Amendments) Act 2011	132, 2011	18 Nov 2011	Sch 1 (items 195–212, 215, 220, 221): 2 Apr 2012 (s 2(1) item 2) Sch 1 (item 451A): 1 July 2012 (s 2(1) item 3) Sch 3: 19 Nov 2011 (s 2(1) item 7)	Sch 1 (items 215, 220, 221) and Sch 3 (item 6)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Sch 1 (items 496, 497): 12 Apr 2013 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 8 (item 38): 24 June 2014 (s 2(1) item 10)	—
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 5 (items 53–59, 74–77) and Sch 7: 14 Apr 2015 (s 2)	Sch 5 (items 74–77) and Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Renewable Energy (Electricity) Amendment Act 2015	90, 2015	27 June 2015	Sch 1 (items 1–39, 46): 27 June 2015 (s 2(1) item 1)	Sch 1 (items 37, 38, 46)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 504, 505): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 263–267): 10 Mar 2016 (s 2(1) item 6)	—
Statute Update (Autumn 2018) Act 2018	41, 2018	22 May 2018	Sch 1 (items 4–6): 19 June 2018 (s 2(1) item 2)	—
National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018	67, 2018	29 June 2018	Sch 2 (item 31): 29 Dec 2018 (s 2(1) item 3)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (items 722, 723): 1 Sept 2021 (s 2(1) item 5)	—

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Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s. 3	am. No. 90, 2006; No. 78, 2009; No 90, 2015
s. 4	am. No. 78, 2009
s 5	am No 90, 2006; No 17, 2009; No 78, 2009; No 69, 2010; No 46, 2011; No 58, 2011; No 132, 2011; No 13, 2013; No 36, 2015; No 90, 2015; No 13, 2021
s. 6	am. No. 69, 2010
s 7B	ad No 78, 2009
s 7C	ad No 78, 2009
Part 2	
Division 1	
s. 8	am. No. 90, 2006; No. 78, 2009; No. 69, 2010 (as am. by No. 136, 2012)
Division 2	
Division 2 heading	rs. No. 90, 2006
s. 9	am. No. 90, 2006
s. 11	rs. No. 132, 2011
Division 2A	
Division 2A	ad. No. 90, 2006
s. 12A	ad. No. 90, 2006
	am. No. 78, 2009
s 12B	ad No 90, 2006
s 12C	ad No 90, 2006
Division 3	
s. 13	am. No. 90, 2006; No. 78, 2009; No. 69, 2010
s. 14	am. No. 90, 2006; No. 78, 2009
s. 15	am. No. 90, 2006
s. 15A	ad. No. 90, 2006
	am. No. 78, 2009; No. 69, 2010
s. 15B	ad. No. 90, 2006

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Provision affected	How affected
s. 17	rs. No. 90, 2006
s. 17A	ad. No. 78, 2009
	am. No. 69, 2010
Division 4	
Division 4 heading	rs. No. 69, 2010
Subdivision AA	
Subdivision AA	ad. No. 69, 2010
s. 17B	ad. No. 69, 2010
Subdivision A	
Subdivision A heading	rs. No. 69, 2010
s. 17C	ad. No. 69, 2010
s. 18	am. No. 90, 2006; No. 78, 2009
s. 19	rs. No. 90, 2006
	am. No. 69, 2010
s. 20	am. No. 90, 2006; No. 78, 2009
s. 20A	ad. No. 90, 2006
Subdivision B	
Subdivision B heading	rs. No. 69, 2010
s. 20B	ad. No. 69, 2010
s. 21	am. No. 90, 2006; No. 69, 2010
s. 22	am. No. 90, 2006; No. 69, 2010
s. 23AA	ad. No. 90, 2006
Subdivision BA	
Subdivision BA heading	rs. No. 69, 2010
s. 23AB	ad. No. 69, 2010
s. 23A	am. No. 90, 2006; No. 69, 2010
s. 23AAA	ad. No. 69, 2010
	am. No. 132, 2011
s. 23B	am. No. 90, 2006; No. 78, 2009; No. 69, 2010
ss. 23C, 23D	am. No. 90, 2006
s. 23E	ad. No. 90, 2006

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision BB	
Subdivision BB	ad. No. 90, 2006
s. 23F	ad. No. 90, 2006
Subdivision C	
s 24	am No 90, 2006; No 4, 2016; No 41, 2018
ss. 24A, 24B	ad. No. 69, 2010
Division 5	
s. 25	am. No. 90, 2006; No. 78, 2009; No. 69, 2010
s. 25A	ad. No. 90, 2006
	am. No. 78, 2009; No. 69, 2010
s. 26	am. No. 69, 2010; No. 132, 2011
Division 6	
s. 27	am. No. 69, 2010
s. 28	am. No. 69, 2010
Division 7	
s. 28A	ad. No. 90, 2006
	am. No. 69, 2010
s. 29	am. No. 90, 2006; No. 69, 2010
Division 8	
s. 30	am. No. 90, 2006
s. 30A	ad. No. 90, 2006
	am. No. 69, 2010; No. 132, 2011
Division 9	
Division 9	ad. No. 90, 2006
s. 30B	ad. No. 90, 2006
Division 10	
Division 10	ad. No. 90, 2006
s. 30C	ad. No. 90, 2006
Division 11	
Division 11	ad. No. 90, 2006
s. 30D	ad. No. 90, 2006

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Provision affected	How affected
	am. No. 78, 2009; No. 69, 2010; No. 132, 2011
s. 30E	ad. No. 90, 2006
Division 12	
Division 12 heading	rs. No. 78, 2009
Division 12	ad. No. 90, 2006
s. 30F	ad. No. 90, 2006
s. 30G	ad. No. 78, 2009
Part 2A	
Part 2A	ad. No. 69, 2010
Division 1	
s. 30H	ad. No. 69, 2010
Division 2	
s. 30J	ad. No. 69, 2010
Division 3	
ss. 30K, 30L	ad. No. 69, 2010
Division 4	
s. 30LA	ad. No. 69, 2010
	am No 126, 2015
ss. 30M, 30N	ad. No. 69, 2010
ss. 30P, 30Q	ad. No. 69, 2010
Division 5	
s 30R	ad No 69, 2010
	am No 36, 2015
s 30S	ad No 69, 2010
	am No 36, 2015
s 30T	ad No 69, 2010
	am No 36, 2015
Division 6	
s. 30U	ad. No. 69, 2010
Part 3	
ss. 31, 32	am. No. 90, 2006; No. 17, 2009

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Endnote 4—Amendment history

Provision affected	How affected
s. 33	am. No. 90, 2006
s. 34	am. No. 90, 2006; No. 17, 2009
Part 4	
Division 1AA	
Division 1AA	ad. No. 69, 2010
s. 34A	ad. No. 69, 2010
	am No 90, 2015
Division 1	
Subdivision A	
Subdivision A heading	ad. No. 69, 2010
Subdivision B	
Subdivision B	ad. No. 69, 2010
ss. 36, 37	rs. No. 69, 2010
s. 38	am. No. 90, 2006; No. 78, 2009
	rs. No. 69, 2010
	am No 90, 2015
Subdivision C	
Subdivision C	ad. No. 69, 2010
s 38AA	ad. No. 69, 2010
	am No 90, 2015
s 38AB	ad. No. 69, 2010
s 38AC	ad. No. 69, 2010
s 38AD	ad. No. 69, 2010
s 38AE	ad. No. 69, 2010
s 38AF	ad. No. 69, 2010
s 38AG	ad. No. 69, 2010
s 38AH	ad. No. 69, 2010
s 38AI	ad. No. 69, 2010
Division 1A	
Division 1A heading	rs No 90, 2015
Division 1A	ad No 78, 2009

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Endnote 4—Amendment history

Provision affected	How affected
s. 38A	ad. No. 78, 2009
	am. No. 69, 2010
	rs No 90, 2015
s 38B	ad. No. 78, 2009
	rs No 90, 2015
s 38C	ad. No. 78, 2009
	am No 90, 2015
Division 2	
Division 2 heading	rs. No. 69, 2010
s 39	am. No. 90, 2006; No. 78, 2009; No. 69, 2010; No 90, 2015
s 40	am. No. 90, 2006; No. 78, 2009; No. 69, 2010; No 90, 2015
Division 2A	
Division 2A	ad. No. 69, 2010
s. 40A	ad. No. 69, 2010
	am No 90, 2015
Division 2AA	
Division 2AA	ad. No. 69, 2010
s. 40AB	ad. No. 69, 2010
Division 3	
Division 3 heading	rs. No. 69, 2010
ss. 40B, 40C	ad. No. 69, 2010
s. 41	am. No. 90, 2006; No. 69, 2010
s 42	am No 90, 2006; No 36, 2015
Part 5	
Part 5 heading	rs. No. 78, 2009
Division 1AA	
Division 1AA	ad. No. 69, 2010
s. 43A	ad. No. 69, 2010
	am No 90, 2015
Division 1	
Division 1	rs. No. 69, 2010

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision A	
s. 44	am. No. 90, 2006; No. 78, 2009
	rs. No. 69, 2010
	am No 90, 2015
s. 44A	ad. No. 69, 2010
s. 45	am. No. 90, 2006
	rs. No. 69, 2010
s. 45A	ad. No. 90, 2006
	rs. No. 69, 2010
ss. 45B–45E	ad. No. 69, 2010
Subdivision B	
s. 46	am. No. 90, 2006
	rs. No. 69, 2010
Division 1A	
Division 1A heading	rs No 90, 2015
Division 1A	ad. No. 78, 2009
s 46A	ad. No. 78, 2009
	am. No. 69, 2010; No 90, 2015
s 46B	ad. No. 78, 2009
	am. No. 69, 2010; No 90, 2015
s. 46C	ad. No. 78, 2009
	am. No. 69, 2010; No 90, 2015
s 46D	ad. No. 69, 2010
	am No 90, 2015
s 46E	ad. No. 69, 2010
	am No 90, 2015
s 46F	ad. No. 69, 2010
Division 2	
Subdivision A	
Subdivision A	ad. No. 69, 2010
s 47	am No 90, 2006

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Provision affected	How affected
	rs No 69, 2010
s 48	am No 90, 2006
	rs No 69, 2010
Subdivision B	
Subdivision B	ad. No. 69, 2010
s 48A	ad No 69, 2010
s 48B	ad No 69, 2010
Subdivision C	
Subdivision C heading	ad. No. 69, 2010
s. 49	am. No. 90, 2006
s. 50	am. No. 90, 2006
s. 52	am. No. 90, 2006; No. 69, 2010
s. 53A	ad. No. 90, 2006
Part 6	
Division 1	
ss. 54, 55	am. No. 90, 2006
ss. 57, 58	am. No. 90, 2006
s. 62	am. No. 90, 2006
s. 65	am. No. 90, 2006
Division 2	
s. 66	am. No. 90, 2006; No. 78, 2009; No. 69, 2010; No 90, 2015
Part 7	
Part 7 heading	rs. No. 90, 2006
Division 1	
s. 67	rs. No. 69, 2010
s. 68	am. No. 90, 2006
s. 70	rs. No. 90, 2006
s. 72	am. No. 69, 2010
Division 2	
Subdivision A	
s. 73	am. No. 69, 2010

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision C	
s 81	am No 90, 2006
s 82	am No 90, 2006
Subdivision D	
ss. 85, 86	am. No. 90, 2006
Subdivision E	
s. 89	am. No. 90, 2006
Part 8	
Part 8 heading	rs. No. 69, 2010
ss. 95, 96	am. No. 90, 2006; No. 69, 2010
ss. 97, 98	am. No. 69, 2010
Part 9	
s. 99	am. No. 90, 2006
	rs. No. 69, 2010
s. 99A	ad. No. 69, 2010
s. 100	am. No. 90, 2006
s. 101	am. No. 90, 2006
s. 102	am. No. 90, 2006
s. 103	am. No. 90, 2006
Part 11	
Division 2	
s. 107	am. No. 90, 2006; No. 132, 2011
s. 109	am. No. 90, 2006; No 4, 2016
Division 3	
Subdivision A	
s. 110	am. No. 90, 2006
s. 111	am. No. 90, 2006; No. 69, 2010
Subdivision B	
s 112	am No 90, 2006
s 113	am No 90, 2006; No 4, 2016
ss. 114, 115	rep. No. 90, 2006

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Provision affected	How affected
Division 4	
ss. 119, 120	am. No. 90, 2006
Division 5	
s. 124	am. No. 90, 2006; No 4, 2016
Division 6	
s. 125	am. No. 90, 2006
Part 11A	
Part 11A	ad. No. 90, 2006
s. 125A	ad. No. 90, 2006
s. 125B	ad. No. 90, 2006
	am. No. 69, 2010
ss. 125C–125E	ad. No. 90, 2006
Part 12	
Part 12 heading	rs. No. 132, 2011
s. 126	am. No. 90, 2006
	rep. No. 132, 2011
s. 127	am. No. 90, 2006; No. 73, 2008
	rep. No. 132, 2011
s. 128	am. No. 90, 2006
	rep. No. 132, 2011
s. 129	am. No. 73, 2008
	rep. No. 132, 2011
s. 130	am. No. 90, 2006; No. 73, 2008
	rep. No. 132, 2011
s. 131	am. No. 73, 2008
	rep. No. 132, 2011
s. 132	am. No. 90, 2006; No. 73, 2008; No. 69, 2010; No. 89, 2011
	rep. No. 132, 2011
s. 133	rep. No. 132, 2011
s. 134	am. No. 90, 2006
	rs. No. 69, 2010

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Endnote 4—Amendment history

Provision affected	How affected
Part 13	
Division 1	
s. 135	am. No. 69, 2010
Division 2	
s. 137	am. No. 8, 2010
Division 3	
s. 138	am. No. 90, 2006; No. 78, 2009
s. 139	am. No. 8, 2010
Division 4	
Division 4 heading	rs. No. 69, 2010
s. 140	am. No. 90, 2006; No. 78, 2009; No. 69, 2010
s. 141	am. Nos. 8 and 69, 2010
Division 4A	
Division 4A	ad. No. 69, 2010
ss. 141AA, 141AB	ad. No. 69, 2010
Division 5	
s. 141A	am. No. 90, 2006; No. 78, 2009
s. 141B	am. No. 8, 2010
Part 14	rep. No. 132, 2011
ss. 142–146	rep. No. 132, 2011
s. 147	am. No. 90, 2006; No. 26, 2008; No. 58, 2011
	rep. No. 132, 2011
s. 147A	ad. No. 90, 2006
	rep. No. 132, 2011
s. 148	am. No. 90, 2006; No. 46, 2011
	rep. No. 132, 2011
ss. 149–151	rep. No. 132, 2011
Part 15	
Part 15 heading	rs. No. 90, 2006
ss. 152, 153	rep. No. 90, 2006
s 154	am No 90, 2006; No 69, 2010; No 4, 2016; No 41, 2018

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Provision affected	How affected
Part 15A	
Part 15A	ad. No. 69, 2010
Division 1	
s 154A	ad No 69, 2010
	am No 13, 2013; No 31, 2014; No 13, 2021
s. 154B	ad. No. 69, 2010
s. 154C	ad. No. 69, 2010
s. 154D	ad. No. 69, 2010
s. 154E	ad. No. 69, 2010
s. 154F	ad. No. 69, 2010
s. 154G	ad. No. 69, 2010
s. 154H	ad. No. 69, 2010
ss. 154J–154M	ad. No. 69, 2010
Division 2	
s. 154N	ad. No. 69, 2010
s. 154P	ad. No. 69, 2010
Part 15B	
Part 15B	ad. No. 69, 2010
Division 1	
s 154Q	ad No 69, 2010
s 154R	ad No 69, 2010
Division 2	
s. 154S	ad. No. 69, 2010
Part 16	
s 156	am No 69, 2010; No 132, 2011; No 67, 2018
s 158	rep No 132, 2011
s 159	am No 132, 2011
s 160	am No 90, 2006; No 78, 2009; No 69, 2010; No 90, 2015
s 160A	ad No 69, 2010
	am No 126, 2015
s 160B	ad No 69, 2010

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Endnote 4—Amendment history

Provision affected	How affected
s 161	am No 90, 2006
s 162	rs No 78, 2009; No 69, 2010; No 132, 2011
	rep No 90, 2015

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