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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

**RENEWABLE ENERGY (ELECTRICITY) AMENDMENT
(EXCESSIVE NOISE FROM WIND FARMS) BILL 2012**

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator John Madigan, Democratic Labor Party Senator for
Victoria and Senator Nick Xenophon, Independent Senator for South Australia)

**RENEWABLE ENERGY (ELECTRICITY) AMENDMENT
(EXCESSIVE NOISE FROM WIND FARMS) BILL 2012**

OUTLINE

The Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012 amends the *Renewable Energy (Electricity) Act 2000* to give powers to the Regulator that ensure that accredited power stations that are wind farms, either in whole or in part, do not create excessive noise.

FINANCIAL IMPACT STATEMENT

The Bill has limited financial impact. The proposals contained in the Bill are expected to be met from the existing resources of the Regulator.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

This bill amends the *Renewable Energy (Electricity) Act 2000* to give powers to the Regulator that ensure that accredited power stations that are wind farms, either in whole or in part, do not create excessive noise.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

**Senator J Madigan
Senator N Xenophon**

NOTES ON CLAUSES

Clause 1: Short title

This clause provides that the Bill, when passed, may be cited as the *Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Act 2012*.

Clause 2: Commencement

This clause provides that the Bill will commence on the day it receives Royal Assent.

Clause 3: Schedule(s)

This clause provides that any Act specified in a Schedule to the Bill is amended or repealed as set out in the applicable items in the Schedule. Any other item in a Schedule to the Bill has effect according to its terms.

Schedule 1—Amendment of the *Renewable Energy (Electricity) Act 2000*

Item 1 –

This item adds a definition of *creates excessive noise* in subsection 5(1) of the *Renewable Energy (Electricity) Act 2000* (the Act). The proposed definition provides a cross-reference to new subsection 14(6) which will define the term *creates excessive noise*.

Item 2 –

This item adds a definition of *wind farm* in subsection 5(1) of the Act. The intention of the definition is to differentiate between power stations that generate some or all of their power from wind and those that do not.

Item 3 –

This item creates a new paragraph 14(2)(aa) in the Act that provides that a wind farm is eligible for accreditation under the Act if the Regulator is satisfied that the wind farm does not and will not create excessive noise.

Item 4 –

This item adds subsection (6) at the end of section 14. Proposed subsection 14(6) sets out the circumstances in which excessive noise will be considered to have been created in relation to premises used for residential purposes or work or where people habitually congregate.

Item 5 –

This item inserts a new section 20AB into the Act. Section 20AB requires the publication on the internet of information prescribed by the regulations relating to noise attributable to the wind farm, wind speed and direction at the wind farm, weather conditions at the wind farm and power output of each turbine at the wind farm. The regulations may specify requirements

for how the information is to be published, for example in ‘real time’ ie. as the relevant information occurs and is collected.

Item 6 –

This item amends subsection 30E(3) of the Act to remove the discretion of the Regulator to suspend the accreditation of an accredited power station if the Regulator believes that the power station is being operated in contravention of a law of the Commonwealth, a State or a Territory and makes it mandatory for the Regulator to do so in those circumstances.

Item 7 –

This item further amends subsection 30E(3) of the Act to make it clear that a power station’s accreditation may be suspended if it contravenes any law in force in the Commonwealth, a State or a Territory, including the common law tort of nuisance which is captured by the proposed reference to “unwritten” laws.

Item 8 –

This item inserts subsections (4A), (4B), (4C) and (4D) into section 30E of the Act. Subsection (4A) provides that the Regulator must suspend accreditation of a wind farm that is creating excessive noise. Subsection (4B) provides that the suspension under subsection (4A) continues until the wind farm is no longer creating excessive noise. Subsection (4C) provides that the Regulator must suspend accreditation of a wind farm that is failing to meet the requirements of section 20AB by not publishing the required information on the internet in accordance with regulations under that section. Subsection (4D) provides that the suspension under subsection (4C) continues until the required information has been published on the internet in accordance with those regulations.

Item 9 –

This item provides for the application of the amendments. It states that the amendment made by item 3 applies to any applications made under section 13 of the *Renewable Energy (Electricity) Act 2000* on or after the commencement of this Bill. It further provides that the amendments made by items 5 to 8 apply to accredited power stations whether they received accreditation before or after the commencement of this Bill.