



Renewable Energy (Electricity) Regulations 2001

Statutory Rules 2001 No. 2 as amended

made under the

Renewable Energy (Electricity) Act 2000

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Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Renewable Energy (Electricity) Regulations 2001*.

2 Commencement [see Note 1]

These Regulations commence on gazettal.

3 Definitions

(1) In these Regulations:

accredited body means a body accredited under the Joint Accreditation System of Australia and New Zealand to give product certification or component certification of solar water heaters.

Act means the *Renewable Energy (Electricity) Act 2000*.

AS, AS/NZS or Australian Standard followed by a number (for example, AS/NZS 3000:2007) means a standard of that number issued by Standards Australia Limited and, if a date is included, of that date.

auxiliary loss has the meaning given in regulation 3B.

bioenergy means the energy derived from the biomass components of an energy source mentioned in any of paragraphs (i) to (s) of the definition of eligible renewable energy source in subsection 17 (1) of the Act.

biomass means organic matter other than fossilised biomass.

Examples of fossilised biomass

Coal, lignite.

business day means a day that is not:

- (a) a Saturday or a Sunday; or
- (b) a public holiday or a bank holiday in the Australian Capital Territory.

Regulation 3

Clean Energy Council means Clean Energy Council Limited, ACN 127 102 443.

cogeneration means a power generation process that provides electricity and process heat as outputs.

component certification, of a solar water heater, means certification by an accredited body in relation to specified components of the solar water heater.

IMO means the Independent Market Operator, established under regulation 4 of the *Electricity Industry (Independent Market Operator) Regulations 2004* (WA).

interconnected hydro-electric system means a hydro-electric system in which water can be directed from a common storage down different watercourses so that water can be diverted from 1 power station to another, altering the amount of electricity that can be generated by each power station.

national electricity market means the interconnected electricity grids in the participating jurisdictions in the National Electricity Rules.

native forest means a local indigenous plant community:

- (a) the dominant species of which are trees; and
- (b) containing throughout its growth the complement of native species and habitats normally associated with that forest type or having the potential to develop those characteristics; and
- (c) including a forest with those characteristics that has been regenerated with human assistance following disturbance; and
- (d) excluding a plantation of native species or previously logged native forest that has been regenerated with non-endemic native species.

NEM standard metering means the standard of metering mentioned in the National Electricity Rules.

network control ancillary services, for a power station, has the same meaning as in the National Electricity Rules.

plantation means an intensively managed stand of trees of native or exotic species, created by the regular placement of seedlings or seed.

Regulation 3

product certification, of a solar water heater, means certification by an accredited body in relation to the design and manufacture of the solar water heater.

quarter means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October of a year.

regional forest agreement has the meaning given by the *Export Control (Hardwood Wood Chips) Regulations 1996*.

registered for GST means registered under the *A New Tax System (Goods and Services Tax) Act 1999*.

Register of solar water heaters means the Register of solar water heaters kept by the Regulator under regulation 19C.

required to be registered for GST means required to be registered under the *A New Tax System (Goods and Services Tax) Act 1999*.

standby plant means an electricity generator that, for each of the immediately preceding 3 years:

- (a) produced less than 50 GWh; or
- (b) had a load factor of less than 5%.

territorial sea has the meaning given by section 3 of the *Seas and Submerged Lands Act 1973*.

thinnings means the selective removal of trees and branches from a forest during the growing stage and at harvest.

- (2) For the definition of **small generation unit** in subsection 5 (1) of the Act:
 - (a) a device whose energy source is hydro is a small generation unit if:
 - (i) it has a kW rating of no more than 6.4 kW; and
 - (ii) it generates no more than 25 MWh of electricity each year; and
 - (b) a device whose energy source is wind is a small generation unit if:
 - (i) it has a kW rating of no more than 10 kW; and
 - (ii) it generates no more than 25 MWh of electricity each year; and

Regulation 3A

- (c) a device whose energy source is solar (photovoltaic) is a small generation unit if:
 - (i) it has a kW rating of no more than 100 kW; and
 - (ii) it generates no more than 250 MWh of electricity each year.

3A Conditions for solar water heater

- (1) For the definition of ***solar water heater*** in subsection 5 (1) of the Act, a device that heats water using solar energy is a solar water heater during the period specified in the Register for the device if the device:
 - (a) is entered in the Register of solar water heaters; and
 - (b) satisfies subregulation (2) or (3).

Note Certificates cannot be created for a solar water heater that is an air source heat pump water heater if it has a volumetric capacity of more than 425 L — see subsection 21 (4) of the Act.

Solar water heaters — capacity not more than 700 L

- (2) A device satisfies this subregulation if:
 - (a) the device has a capacity of not more than 700 L; and
 - (b) an accredited body has given the device product certification to AS/NZS 2712:2007, *Solar and heat pump water heaters — Design and construction*, as in force at the time the certification is given.

Solar water heaters — capacity more than 700 L

- (3) A device satisfies this subregulation if:
 - (a) the device has a capacity of more than 700 L; and
 - (b) an accredited body has given the device component certification to each of the following Australian Standards that applies to the device:
 - (i) AS/NZS 2712:2007 *Solar and heat pump water heaters — Design and construction*, as in force at the time the certification is given;

Regulation 3B

- (ii) the Australian Standards mentioned in clause 1.4 of AS/NZS 2712:2007 *Solar and heat pump water heaters — Design and construction*, as in force at the time the certification is given; and
- (c) the storage tank of the device meets the requirements of:
 - (i) both:
 - (A) AS/NZS 4692.1:2005, *Electric water heaters, Part 1: Energy consumption, performance and general requirements*, as in force at the time the certification mentioned in paragraph (b) is given; and
 - (B) AS/NZS 4692.2:2005, *Electric water heaters, Part 2: Minimum Energy Performance Standard (MEPS) requirements and energy labelling*, as in force at the time the certification mentioned in paragraph (b) is given; or
 - (ii) the document called *Heat Loss Test Procedure for Solar Water Heaters with a Hot Water Storage Tank Greater than 630 L*, first published by the Regulator on 29 May 2003, as in force at the time the certification mentioned in paragraph (b) is given.

Note A copy of the document mentioned in subparagraph (3) (c) (ii) is available by post from the Office of the Renewable Energy Regulator, GPO Box 621, Canberra ACT 2601, and the document can be viewed on and downloaded from the Regulator's website: <http://www.orer.gov.au>.

3B Definition of *auxiliary loss*

- (1) For a power station, ***auxiliary loss*** means the amount of electricity used in generating electricity, and operating and maintaining the power station, but does not include any electricity used for network control ancillary services.
- (2) For a hydro-electric power station, ***auxiliary loss*** also includes the amount of electricity that is used to pump or to raise water before its release for hydro-electric generation.

Part 2 Renewable energy certificates

Division 2.1 Accreditation

4 Eligibility for accreditation

- (1) For paragraph 14 (2) (b) of the Act:
 - (a) a power station that is in the national electricity market must use NEM standard metering; and
 - (b) a power station that is not in the national electricity market must use metering that enables the Regulator to determine the amount of electricity generated by the power station; and
 - (c) the power station must be operated in accordance with any relevant Commonwealth, State, Territory or local government planning and approval requirements.
- (2) For subsection 14 (4) of the Act, the guidelines are set out in Schedule 1.

5 1997 eligible renewable power baselines

For subsection 14 (4) of the Act, the guidelines for determining the 1997 eligible renewable power baseline for a power station are set out in Schedule 3.

Note See section 30F of the Act and Division 2.6 of these Regulations in relation to varying the 1997 eligible renewable power baseline for an accredited power station.

Division 2.2 Eligible renewable energy sources

6 Meaning of certain energy sources that are eligible renewable energy sources (Act s 17)

For subsections 17 (3) and (4) of the Act:

agricultural waste means the putrescible biomass wastes produced during agricultural operations, including livestock husbandry.

biomass-based components of municipal solid waste means the biomass-based components of wastes that are directly sourced from, or eligible to be disposed of in, landfill or a waste transfer station that is licensed by a State or Territory government body or by a local government authority, but does not include biomass-based components of wastes originating from:

- (a) forestry or broadacre land clearing for agriculture, silviculture and horticulture operations; or
- (b) fossil fuels.

black liquor means the mixture arising from the chemical wood pulping process.

hot dry rock includes hot fractured rock.

landfill gas means the gas produced by the breaking down of the organic part of municipal landfills.

sewage gas means gas produced by the decomposition of domestic and commercial wastes that are collected from sewerage systems and treated by sewage treatment plants.

waste from processing of agricultural products means the biomass waste produced from processing agricultural products.

7 Meaning of certain energy sources that are not eligible renewable energy sources (Act s 17)

For subsection 17 (3) of the Act:

fossil fuels means any of the following:

- (a) coal, oil, natural gas or other petroleum-based products;

Regulation 8

- (b) products, by-products and wastes associated with, or produced from, extracting and processing coal, oil, natural gas or other petroleum-based products.

Examples

Condensate liquids, coal seam methane, coal mine methane.

waste products derived from fossil fuels means the components of waste streams that:

- (a) are made using, as raw materials, any material that is a fossil fuel for the Act; and
- (b) are products or by-products of manufacturing operations, including plastics, tyres, disposable nappies, synthetic carpets and synthetic textiles.

8 Meaning of wood waste

- (1) For section 17 of the Act, **wood waste** means:

- (a) biomass:
 - (i) produced from non-native environmental weed species; and
 - (ii) harvested for the control or eradication of the species, from a harvesting operation that is approved under relevant Commonwealth, State or Territory planning and approval processes; and
- (b) a manufactured wood product or a by-product from a manufacturing process; and
- (c) waste products from the construction of buildings or furniture, including timber off-cuts and timber from demolished buildings; and
- (d) sawmill residue; and
- (e) biomass from a native forest that meets all of the requirements in subregulation (2).

Examples for paragraph (b)

Packing case, pallet, recycled timber, engineered wood product (including one manufactured by binding wood strands, wood particles, wood fibres or wood veneers with adhesives to form a composite).

- (2) Biomass from a native forest must be:
 - (a) harvested primarily for a purpose other than biomass for energy production; and

Regulation 8

- (b) either:
 - (i) a by-product or waste product of a harvesting operation, approved under relevant Commonwealth, State or Territory planning and approval processes, for which a high-value process is the primary purpose of the harvesting; or
 - (ii) a by-product (including thinnings and coppicing) of a harvesting operation that is carried out in accordance with ecologically sustainable forest management principles; and
- (c) either:
 - (i) if it is from an area where a regional forest agreement is in force — produced in accordance with any ecologically sustainable forest management principles required by the agreement; or
 - (ii) if it is from an area where no regional forest agreement is in force — produced from harvesting that is carried out in accordance with ecologically sustainable forest management principles that the Minister is satisfied are consistent with those required by a regional forest agreement.
- (3) For subparagraph (2) (b) (i), the primary purpose of a harvesting operation is taken to be a high-value process only if the total financial value of the products of the high value process is higher than the financial value of other products of the harvesting operation.
- (4) In this regulation:
 - ecologically sustainable forest management principles*** means the following principles that meet the requirements of ecologically sustainable development for forests:
 - (a) maintenance of the ecological processes within forests, including the formation of soil, energy flows, and the carbon, nutrient and water cycles;
 - (b) maintenance of the biological diversity of forests;
 - (c) optimisation of the benefits to the community from all uses of forests within ecological constraints.

Regulation 9

high-value process means the production of sawlogs, veneer, poles, piles, girders, wood for carpentry or craft uses, or oil products.

9 Energy crops (Act s 17)

- (1) For section 17 of the Act, biomass from a plantation is not an energy crop unless all of the following apply to it:
 - (a) it must be a product of a harvesting operation (including thinnings and coppicing) approved under relevant Commonwealth, State or Territory planning and approval processes;
 - (b) it must be biomass from a plantation that is managed in accordance with:
 - (i) a code of practice approved for a State under regulation 4B of the Export Control (Unprocessed Wood) Regulations; or
 - (ii) if a code of practice has not been approved for a State as required under subparagraph (i), Australian Standard *AS 4708—2007 — The Australian Forestry Standard*;
 - (c) it must be taken from land that was not cleared of native vegetation after 31 December 1989 to establish the plantation.
- (2) For section 17 of the Act, biomass from a native forest is not an energy crop.

10 Special requirements — ocean, wave and tide

Electricity generated from an ocean, wave or tide energy source must be generated within the territorial sea of Australia.

Division 2.3 Eligible electricity generation

Subdivision 2.3.1 Accredited power stations

13 Working out electricity generation for a power station

For subsection 18 (3) of the Act, the amount of electricity generated by an accredited power station is worked out in accordance with regulations 14 to 16.

14 General formula

- (1) The amount of electricity generated by an accredited power station in a year is:

$$TLEG - (FSL + AUX + (DLEG \times (1 - MLF)))$$

where:

TLEG is the total amount of electricity, in MWh, generated by the power station in the year, as measured at all generator terminals of the power station in the year.

FSL is the amount (if any) of electricity, in MWh, generated by the power station in the year using energy sources that are not eligible renewable energy sources, worked out under regulation 15.

AUX is the auxiliary loss, in MWh, for the power station for the year.

Note See regulation 16 in relation to working out the auxiliary loss if some of the electricity generated by the power station in the year was generated using energy sources that are not eligible renewable energy sources.

DLEG is the amount of electricity, in MWh, transmitted or distributed by the power station in the year, measured:

- (a) if the power station is part of the national electricity market — at the point determined under the National Electricity Rules; or
- (b) in any other case — at the point determined by an authority of the State or Territory where the power station is.

Regulation 15

MLF is the marginal loss factor, to allow for the amount of electricity losses in transmission networks, as determined by:

- (a) if the power station is part of the national electricity market — AEMO; or
 - (b) in any other case — an authority of the State or Territory where the power station is.
- (2) If all the electricity generated by the accredited power station is used in the power station, or in the local distribution network, or in both the power station and the local distribution network, the marginal loss factor (**MLF**) for subregulation (1) is taken to be 1.
- (3) If the amount calculated using the formula in subregulation (1) exceeds 1 MWh and results in an amount that is not a whole MWh, the amount must be rounded down to the nearest MWh.

15 Ineligible fuel component

For the purpose of regulation 14, the amount (**FSL**) of electricity generated by an accredited power station attributable to energy sources that are not eligible renewable energy sources is the amount worked out by converting the energy content of those energy sources into the equivalent number of MWh of electricity.

15A Electricity omitted from calculation

When determining the amount of electricity generated by an accredited power station, the following electricity is to be omitted from all calculations under regulation 14:

- (a) electricity that was generated by using an eligible renewable energy source that is not ecologically sustainable;
- (b) electricity that was not used to directly meet demand for electricity;
- (c) electricity generated in a power station where an approval to use an eligible renewable energy source:
 - (i) is required by a Commonwealth, State, Territory or local government authority; and

- (ii) the nominated person for the power station is unable to give evidence of that approval.

Note **Ecologically sustainable** is defined in subsection 5 (1) of the Act.

16 Supplementary generation

For electricity generated by the power station from an energy source that is not an eligible renewable energy source, auxiliary losses from the system that are attributable to that source are to be deducted from the total auxiliary loss proportionately to the proportion of electricity generated from that source.

18 Electricity generation returns for accredited power stations (Act s 20)

- (1) For paragraph 20 (2) (d) of the Act, an electricity generation return for an accredited power station for a year must include the following:
 - (a) the year to which the return relates;
 - (b) the nominated person's registration number;
 - (c) the identification code given to the power station;
 - (d) the telephone number, fax number and e-mail address (if any) of the power station;
 - (e) for each eligible renewable energy source used by the power station to generate electricity in the year:
 - (i) the amount of electricity generated; and
 - (ii) the number of certificates created by the nominated person for that electricity;
 - (f) any changes to information already given to the Regulator about the following matters in relation to the power station:
 - (i) ownership;
 - (ii) company mergers involving the owner or the operator;
 - (iii) street address, telephone number, fax number and e-mail address (if any);
 - (iv) electricity supply arrangements;
 - (v) generation capacity;

Regulation 18

- (g) the 1997 eligible renewable power baseline that applied to the power station for the year;
 - (h) the date when the power station became an accredited power station;
 - (i) if the power station was not an accredited power station for all of the year:
 - (i) the amount of electricity generated by the power station since it became accredited; and
 - (ii) the number of certificates created by the nominated person for that amount of electricity;
 - (j) if a certificate was created in the year for an amount of electricity generated by the power station in a previous year:
 - (i) the number of certificates created by the nominated person for the amount of electricity generated in each previous year; and
 - (ii) each eligible renewable energy source used to generate that electricity;
 - (k) information about any electricity that was imported into the power station in the year and how it was used;
 - (l) details of any breach of the conditions of a permit, or conviction for an offence, under any Commonwealth, State, Territory or local government law related to the operation of the power station during the year, or, if there was no breach or conviction during the year, a declaration to that effect.
- (2) The first return for an accredited power station after commencement of this regulation must also include the following:
- (a) for the years since gaining any accreditation under the Act, details of any breach of the conditions of a permit, or conviction for an offence, under any Commonwealth, State, Territory or local government law related to operation of the power station;
 - (b) if there was no breach or conviction for those years, a declaration to that effect.

Note See subsection 20 (2) of the Act for other information that must be included in an electricity generation return.

Subdivision 2.3.2 Solar water heaters

19 Creation of certificates for solar water heaters (Act s 21)

- (1) For subsection 21 (3) of the Act, the time at which a solar water heater is taken to have been installed is the day the heater is first able to produce and deliver hot water heated by solar energy, if this happens no more than 60 days from the start of installation of any component of the heater.
- (2) To avoid doubt, a solar water heater is taken to have been installed once only during the life of the unit.

Note Subsection 21 (2) of the Act provides that certificates may be created only within 12 months after the installation of the solar water heater.

19A Number of certificates

- (1) For subsection 22 (1) of the Act, the number of certificates that may be created for a particular installation of a model of solar water heater in a particular zone and installation period is:
 - (a) for a solar water heater with a volumetric storage capacity up to and including 700 litres — the number set out in the Register of solar water heaters that is applicable to the model, zone and period; and
 - (b) for a solar water heater with a volumetric storage capacity over 700 litres — either:
 - (i) if the person who is entitled to create the certificates complies with subregulation (2) — the number set out in the Register of solar water heaters that is applicable to the model, zone and period; or
 - (ii) if the person who is entitled to create the certificates does not comply with subregulation (2) — 0.

Note Certificates cannot be created for a solar water heater that is an air source heat pump water heater if it has a volumetric capacity of more than 425 L — see subsection 21 (4) of the Act.

Regulation 19B

- (2) For paragraph (1) (b), the person who is entitled to create the certificates complies with this subregulation if, before the person creates any certificates in relation to the solar water heater, the person:
 - (a) obtains a statutory declaration that states the matters set out in subregulation (3); and
 - (b) obtains a further statutory declaration from the owner of the heater at the time it is installed stating that the owner intends that the solar water heater will remain installed in its original configuration and location for the life of the heater; and
 - (c) gives a copy of both statutory declarations to the Regulator.
- (3) For subregulation (2) the statutory declaration must state:
 - (a) the model of the solar water heater; and
 - (b) the volumetric storage capacity of the heater; and
 - (c) the premises at which the heater is to be installed and used; and
 - (d) the purposes for which the heater, and the hot water produced by the heater, are to be used; and
 - (e) that the volumetric storage capacity of the heater is appropriate for the premises at which the heater is to be installed and the purposes for which the heater, and the hot water produced by the heater, are to be used; and
 - (f) the expertise or experience of the person signing the declaration in relation to a heater of the kind covered by the declaration.

19B Determination of method for determining number of certificates

- (1) For subsection 22 (1) of the Act, the Regulator may determine, by legislative instrument, the method to be used to determine the number of certificates that may be created for a particular model of solar water heater.

Regulation 19BA

- (2) The determination must provide that the number of certificates that may be created is to be worked out by reference to the difference, over 10 years, between:
 - (a) the energy, other than solar energy or energy collected from the latent and sensible heat of the atmosphere, to be used by the solar water heater; and
 - (b) the electrical energy that would be used by an equivalent electric water heater.
- (3) For subregulation (2), an electric water heater is an ***equivalent electric water heater*** if it:
 - (a) supplies the same, or a similar, hot water load as the solar water heater mentioned in paragraph (2) (a); and
 - (b) is not a heat pump.
- (4) In making the determination, the Regulator must have regard to the method set out in the Australian Standard, set out in Schedule 4, as in force at the time the determination is made that applies to the solar water heater.
- (5) In making the first determination under subregulation (1), the Regulator must have regard to:
 - (a) the guidelines known as *REC calculation methodology for solar water heaters and heat pump water heaters with a volumetric capacity up to and including 700 litres*, published by the Regulator on its website, as in force at the time the determination is made; and
 - (b) the guidelines known as *REC calculation methodology for solar water heaters and heat pump water heaters with a volumetric capacity over 700 litres*, published by the Regulator on its website, as in force at the time the determination is made.

19BA Determination of number of certificates

- (1) For subsection 22 (1) of the Act, the Regulator may determine the number of certificates that may be created for a particular model of solar water heater in each of the zones mentioned in paragraph 19C (3) (b).

Regulation 19BA

- (2) In making the determination, the Regulator must:
 - (a) if a determination under subregulation 19B (1) is in force — make the determination in accordance with that determination; and
 - (b) if there is no determination under subregulation 19B (1) in force — determine the number of certificates using the method in subregulation (3).
- (3) For paragraph (2) (b), the number of certificates that may be created is to be worked out:
 - (a) by reference to the difference, over 10 years, between:
 - (i) the energy, other than solar energy or energy collected from the latent and sensible heat of the atmosphere, to be used by the solar water heater; and
 - (ii) the electrical energy that would be used by an equivalent electric water heater; and
 - (b) having regard to the following, as in force at the time of the determination:
 - (i) AS/NZS 2535.1:2007, *Test methods for solar collectors*, Part 1: *Thermal performance of glazed liquid heating collectors including pressure drop*; and
 - (ii) AS 4234—1994, *Solar water heaters — Domestic and heat pump — Calculation of energy consumption*; and
 - (iii) AS/NZS 4692.1:2005, *Electric water heaters*, Part 1: *Energy consumption, performance and general requirements*; and
 - (c) if the solar water heater has a volumetric capacity up to and including 700 litres — having regard to the guidelines known as *REC calculation methodology for solar water heaters and heat pump water heaters with a volumetric capacity up to and including 700 litres*, published by the Regulator on its website, as in force at the time the determination is made; and
 - (d) if the solar water heater has a volumetric capacity over 700 litres — having regard to the guidelines known as *REC calculation methodology for solar water heaters and heat pump water heaters with a volumetric capacity over*

Regulation 19BC

700 litres, published by the Regulator on its website, as in force at the time the determination is made.

- (4) For subregulation (3), an electric water heater is an *equivalent electric water heater* if it:
 - (a) supplies the same, or a similar, hot water load as the solar water heater mentioned in subparagraph (3) (a) (i); and
 - (b) is not a heat pump.

19BB Variation of determination

- (1) This regulation applies if the Regulator proposes to make a determination under regulation 19BA which would vary the information contained in the Register of solar water heaters.
- (2) Before making the determination, the Regulator must:
 - (a) tell the manufacturer of the solar water heater, in writing:
 - (i) what information the Regulator proposes to vary and how it would be varied; and
 - (ii) the reason for the proposed variation; and
 - (b) invite the manufacturer to make written submissions about the proposed variation; and
 - (c) take into account any submissions received from the manufacturer when deciding whether to make the determination.

19BC Requests for determination

- (1) A person may request the Regulator to make a determination under regulation 19BA.
- (2) The request must:
 - (a) be in writing in a form approved by the Regulator; and
 - (b) contain, or be accompanied by, any information or document required by the approved form; and
 - (c) be given to the Regulator within the 30 day period mentioned in paragraph 19BD (2) (b).

Regulation 19BD

- (3) The Regulator may, by written notice given to the person, request the person to give the Regulator, within the period specified in the notice, additional information and documents in connection with the request.
- (4) If the person does not provide the additional information and documents within the specified period, the Regulator may, by written notice to the person:
 - (a) refuse to consider the request; or
 - (b) refuse to take any action, or further action, in relation to the request.
- (5) The Regulator must consult with the person making the request if the Regulator proposes:
 - (a) not to make the requested determination; or
 - (b) to include information in the determination that is different to the information contained in the request.
- (6) The Regulator must tell the person about the Regulator's decision on the request:
 - (a) in writing; and
 - (b) not later than 180 days after the expiry of 30 day period mentioned in paragraph (2) (c).

19BD Invitation for requests for determination

- (1) The Regulator must, at intervals of not more than 6 months, invite persons to make requests under subregulation 19BC (1).
- (2) The invitation must:
 - (a) be published on the Regulator's website; and
 - (b) include a 30 day period in which requests are to be made.

19C Register of solar water heaters (Act s 23AA)

- (1) The Regulator must establish and keep a register to be known as the Register of solar water heaters.
- (2) The Regulator must keep the Register in electronic form.

Regulation 19D

- (3) The Regulator must include the following information in the Register:
 - (a) the brand name and the model name of each solar water heater for which certificates may be created (an *eligible solar water heater*);
 - (b) zones in Australia determined by the Regulator:
 - (i) on the basis of climate and solar radiation levels; and
 - (ii) by reference to a range of postcodes, taking account of each postcode area in Australia;
 - (c) the number of certificates that may be created for each eligible solar water heater in each zone;
 - (d) the installation periods in which certificates may be created for each eligible solar water heater.
- (3A) The Regulator must remove from the Register any device that is not a solar water heater.
- (4) The Register must be accessible on a website kept by the Regulator.
- (5) For this regulation, the Regulator is taken, on the specified day, to have included in the Register the information set out in Schedule 7 to these Regulations, as in force immediately before the specified day.
- (6) In subregulation (5), the *specified day* means the day beginning 30 days after commencement of Schedule 1 to these Regulations.

Subdivision 2.3.3 Small generation units

**19D Creation of certificates for small generation units
(Act s 23A)**

- (1) For subsection 23A (2) of the Act, the time at which a small generation unit is taken to have been installed is the day the unit is first able to produce and deliver electricity.

Regulation 19E

- (2) For subsection 23A (3) of the Act, a right to create certificates for a small generation unit arises:
 - (a) within 12 months of installation — for a 1-year period or a 5-year period; or
 - (b) if a right was previously exercised for a 1-year period under paragraph (a), the start of each subsequent 1-year period after installation — for an additional 1-year period or 5-year period; or
 - (c) if:
 - (i) a right was previously exercised for a 5-year period under paragraph (a); and
 - (ii) the Regulator is satisfied that the unit is still installed and likely to remain functional for the further 5 years;
the start of each subsequent 5-year period after installation — for a further 5-year period; or
 - (d) within 12 months of installation — for a 15-year period if:
 - (i) the unit is a solar (photovoltaic) system installed after 31 July 2005; and
 - (ii) no certificate has been created for the unit under paragraph (a), (b) or (c).
- (3) Where a right to create certificates has been exercised under paragraph (2) (d) for a period of 15 years, no additional right to create certificates arises.

19E Conditions for creation of certificates

- (1) This regulation is made for subsection 23A (1A) of the Act and sets out the conditions that must be satisfied before a certificate can be created for a small generation unit.
- (2) On and after 1 February 2011, a registered person cannot create a certificate unless the person gives the Regulator the information required under subregulation (3):
 - (a) at the time the person notifies the Regulator under subsection 26 (2) of the Act; or
 - (b) before that time.

Regulation 19E

- (3) The information required is a reasonable estimate of the total amount of out-of-pocket expenses incurred by the purchaser to purchase and install the small generation unit.
- (4) For subregulation (3), *out-of-pocket expenses* is worked out as follows:

$$(\text{amount A} + \text{amount B}) - (\text{amount C} + \text{amount D} + \text{amount E})$$

where:

amount A is:

- (a) the total amount paid by the purchaser for the small generation unit and the installation of the unit; or
- (b) if it is not possible to determine the total amount paid because the price of the small generation unit is included in the total amount paid for other goods or services — a reasonable estimate of the total amount paid by the purchaser for the small generation unit and the installation of the unit.

amount B is a reasonable estimate of the amount that the purchaser will pay to the seller of the unit after it is installed and that is not included in amount A.

amount C is a reasonable estimate of the market value of any goods or services provided, or to be provided, free of charge to the purchaser for the purchase or installation of the unit (excluding the value of the goods that make up the unit and the installation service).

amount D is a reasonable estimate of the amount of the difference between:

- (a) the market value of any goods or services provided, or to be provided, to the purchaser for the purchase or installation of the unit at a non-market price not included in amount A (excluding the value of the goods that make up the unit and the installation service); and
- (b) the non-market value paid by the purchaser for the goods and services

Regulation 19F

amount E is a reasonable estimate of any amount paid, or to be paid, to the purchaser after the unit has been purchased, including the value of any certificates that may be created by the purchaser.

- (5) For subregulation (4), amount E does not include the monetary value of any feed-in tariff offered to the purchaser regardless of whether or not the purchaser installs a small generation unit obtained from the seller.

- (6) In this regulation:

purchaser, for a small generation unit, means:

- (a) the owner of the unit; or
- (b) if the unit is leased to a person who owns or occupies premises on which the unit is installed by a person who is not the owner or occupier of the premises — the lessee of the unit.

seller, for a small generation unit that is leased to a person, includes the lessor of the unit.

Note 1 Section 160 of the Act requires registered persons and other entities to keep records that record and explain all transactions and other acts engaged in, or required to be engaged in, by the person or entity under the Act.

Note 2 Under subsection 26 (6) of the Act, the Regulator may require a person who has created a certificate to provide a written statement containing such information as the Regulator requires in connection with the creation of the certificate.

19F Certain costs to be included in purchase and installation

For regulation 19E:

- (a) the amount paid by the purchaser for the installation of a small generation unit includes the costs associated with connecting the unit to a grid; and
- (b) the amount paid by the purchaser for the purchase of a unit includes the cost of purchasing the following:
 - (i) the generating equipment for the unit;
 - (ii) the structures and materials to attach the unit to a property;

- (iii) the metering and wiring associated with connecting the unit to the property;
- (iv) batteries that store the electricity generated by the unit and associated wiring and equipment.

19G Publication of out-of-pocket expenses

- (1) Subject to subregulation (3), the Regulator must, for each quarter within a period mentioned in column 1 of an item in the table in subregulation 20AA (2), publish details of the out-of-pocket expenses incurred for small generation units for which certificates were created during the quarter.
- (2) The details must be published on the Regulator's website within 28 days after the end of the quarter to which they relate.
- (3) Subregulation (1) only applies for a quarter that commences on or after 1 January 2011.
- (4) In this regulation:
out-of-pocket expenses has the meaning given by subregulation 19E (4).

20 Number of certificates that may be created (Act s 23B)

- (1) For subsection 23B (1) of the Act, the number of certificates that may be created for a small generation unit, in the circumstances mentioned in regulation 20AC, is the number that may be created:
 - (a) for a hydro-electric system — for the amount calculated by multiplying 0.00095 by the rated power output of the system, measured in kW, multiplied by:
 - (i) 4 000; or
 - (ii) the number of hours each year of hydro resource availability if those hours are greater than 4 000.
 - (b) for a solar (photovoltaic) system — for the amount calculated by multiplying the zone rating of the system by the rated power output of the system measured in kilowatts-peak (kW_p);

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- (c) for a wind turbine — for the amount calculated by multiplying 0.00095 by the rated power output of the system, measured in kW, multiplied by:

- (i) 2 000; or
 - (ii) the number of hours each year of wind resource availability if those hours are greater than 2 000.

Note **Small generation unit** is defined in subregulation 3 (2). For certificates in relation to installations other than small generation units, see Divisions 2 and 3 of Part 2 of the Act.

- (2) For subregulation (1), the number of certificates worked out for an installation is:
 - (a) if the amount of electricity generated that is in excess of the 1997 renewable energy baseline for the small generation unit is at least 0.5 MWh but less than 1 MWh — 1; and
 - (b) in any other case — the number calculated under subregulations (2A) and (2B).
- (2A) If a small generation unit has a rated power output of more than 1.5kW (**output power**), and is not a unit to which subregulation (2C) or (2E) applies, the number of certificates created for the unit is to be calculated as follows:
 - (a) by first adding together:
 - (i) the number of certificates created for the first 1.5 kW of the unit's output power (as multiplied in accordance with regulation 20AA); and
 - (ii) the number of certificates created for the remainder of the unit's output power; and
 - (b) then by rounding down the number of certificates arrived at under paragraph (a) to the nearest whole number.
- (2B) If the small generation unit has a rated power output of 1.5kW or less, and is not a unit to which subregulation (2E) applies, the number of certificates created for the unit is to be calculated as follows:
 - (a) by first multiplying the number of certificates in accordance with regulation 20AA; and
 - (b) then by rounding down the number of certificates arrived at under paragraph (a) to the nearest whole number.

Regulation 20

- (2C) This subregulation applies to a small generation unit if:
- (a) the unit:
 - (i) has a rated power output of more than 20 kW (*output power*); and
 - (ii) is an off-grid small generation unit; and
 - (iii) was installed after 28 June 2010 and before 1 July 2013; and
 - (b) at the time the certificates are created, the number of multiplier certificates created for off-grid small generation units installed in the period in which the unit is installed does not equal or exceed the maximum number mentioned in subregulation (2G) for the period; and
 - (c) the creation of certificates for the unit will not cause the number of multiplier certificates created for off-grid small generation units installed in the period in which the unit was installed to exceed the maximum number mentioned in subregulation (2G) for the period.
- (2D) The number of certificates created for a unit to which subregulation (2C) applies is to be worked out:
- (a) by adding together:
 - (i) the number of certificates created for the first 20 kW of the unit's output power (as multiplied in accordance with regulation 20AA); and
 - (ii) the number of certificates created for the remainder of the unit's output power; and
 - (b) by rounding down the number of certificates worked out under paragraph (a) to the nearest whole number.
- (2E) This subregulation applies to a small generation unit if:
- (a) the unit:
 - (i) has a rated power output of 20 kW or less; and
 - (ii) is an off-grid small generation unit; and
 - (iii) was installed after 28 June 2010 and before 1 July 2013; and
 - (b) at the time the certificates are created, the number of multiplier certificates created for off-grid small generation units installed in the period in which the unit is installed

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does not equal or exceed the maximum number mentioned in subregulation (2G) for the period; and

- (c) the creation of certificates for the unit will not cause the number of multiplier certificates created for off-grid small generation units installed in the period in which the unit is installed to exceed the maximum number mentioned in subregulation (2G) for the period.
- (2F) The number of certificates created for a unit to which subregulation (2E) applies is to be worked out:
- (a) by multiplying the number of certificates in accordance with regulation 20AA; and
 - (b) by rounding down the number of certificates worked out under paragraph (a) to the nearest whole number.
- (2G) For paragraphs (2C) (b) and (2E) (b), the maximum number of multiplier certificates that may be created for off-grid small generation units installed in a period is the number mentioned in the following table for the period.

Item	Period	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

- (2H) If subregulation (2C) or (2E) does not apply to a small generation unit only because paragraph (2C) (c) or (2E) (c) does not apply to the unit, the number of certificates that may be created for the unit is the sum of:
- (a) the number that may be created for the unit under paragraph (2A) or (2B); and
 - (b) the number of certificates that would cause the number of multiplier certificates created for off-grid small generation units installed in the period in which the unit was installed to equal the maximum number mentioned in subregulation (2G) for the period.

Regulation 20AA

- (2I) For paragraphs (2C) (b) and (c) and (2E) (b) and (c), a certificate that the Regulator determines is not eligible for registration is not to be included in the number of multiplier certificates created for the period for off-grid small generation units installed in the period.
- (2J) For this regulation:
multiplier certificates, for off-grid small generation units installed in a period mentioned in the table in subregulation (2G), means the certificates created for units using the multiplier in subregulation 20AA (2), other than the certificates that would have been created were the multiplier applied only to the first 1.5 kW of the rated power output for those units.
- (3) For subparagraph (1) (a) (ii), hydro resource availability of more than 4 000 hours each year must be demonstrated by a site-specific assessment.
- (4) For paragraph (1) (b):
- (a) the zone rating of the system is the rating mentioned in an item in Part 1 of Schedule 5 for the zone where the system is installed; and
 - (b) the zone where the system is installed is the zone mentioned in an item in Part 2 of Schedule 5 for the postcode where the system is installed.
- (5) For paragraph (1) (c) (ii), wind resource availability of more than 2 000 hours each year must be demonstrated by a site-specific wind audit.

20AA Multiplying number of certificates (Act s 23B)

- (1) This regulation is made for subsections 23B (2) and (3) of the Act.
- (2) Subject to subregulation (3), the number of certificates that may be created in relation to a small generation unit that is installed during a period specified in column 1 of an item in the following table is to be multiplied by the number in column 2 of the item.

Regulation 20AA

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	3
4	1 July 2012 to 30 June 2013	2

Note The certificates are created in accordance with regulations 19D and 20.

- (3) The number of certificates is to be multiplied in accordance with subregulation (2):
- (a) only if:
- (i) the small generation unit in respect of which the certificates are created is installed at eligible premises during a period mentioned in the table in subregulation (2); and
 - (ii) at the time the small generation unit is installed at the eligible premises, there is no pre-approval or funding agreement in force in respect of the unit under the SHCP, the RRP GP or the NSSP and no financial assistance has been provided in respect of the unit under the SHCP, the RRP GP or the NSSP; and
 - (iii) at the time the small generation unit is installed at the eligible premises, financial assistance under the SHCP, the PVRP, the RRP GP or the NSSP has not been approved or provided in respect of any other small generation unit at the eligible premises; and
 - (iv) the small generation unit is a new and complete unit; and
 - (v) at the time the small generation unit is installed at eligible premises, certificates have not been multiplied under subregulation (2) in respect of any small generation unit at the premises; and
- (b) on 1 occasion only, irrespective of whether the certificates are created for a 1-year period, a 5-year period or a 15-year period; and

- (c) only if the certificates relate to:
 - (i) for a unit to which subregulation 20 (2C) or (2E) applies — the first 20 kW of the rated power output of the unit; or
 - (ii) for any other unit — the first 1.5 kW of the rated power output of the unit.
- (4) For subparagraph (3) (a) (iv), a small generation unit is a ***complete unit*** if:
 - (a) the unit is capable of generating electricity in a form that is usable at the eligible premises where it is installed without the need for an additional part or parts to be added to or incorporated into the unit; and
 - (b) either:
 - (i) the unit is wired directly to the eligible premises where the unit is installed so that its output is capable of being metered at those premises; or
 - (ii) the unit includes a meter that is dedicated to measuring the electricity output of the unit.
- (5) In this regulation:

eligible premises means any of the following:

 - (a) a house (including the land on which the house is located and any outbuildings on the land);
 - (b) a townhouse;
 - (c) a residential apartment;
 - (d) a shop (including the land on which the shop is located and any outbuildings on the land);
 - (e) premises, other than premises mentioned in paragraphs (a) to (d), that are located at an address.

NSSP means the program known as the National Solar Schools Program administered by the Department administered by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*.

PVRP means the program known as the Photovoltaic Rebate Program administered by the Australian Greenhouse Office.

Regulation 20AB

RRPGP means the program known as the Renewable Remote Power Generation Program administered by the Department administered by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*.

SHCP means the program known as the Solar Homes and Communities Plan administered by the Department administered by the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*.

20AB Regulator may make determinations about particular premises

- (1) For the purposes of paragraph (e) of the definition of *eligible premises* in subregulation 20AA (5), the Regulator may, by legislative instrument, determine that:
 - (a) specified premises are premises located at an address; or
 - (b) specified premises are not premises that are located at an address.
- (2) The Regulator must publish details of any determination made by the Regulator on the Regulator's website.

20AC Requirements for creation of certificates

- (1) For subregulation 20 (1), this regulation sets out the circumstances in which certificates may be created for a small generation unit.
- (2) The unit was designed and installed by a person or persons:
 - (a) if the unit is a stand-alone power system — accredited for stand-alone power systems under the Australian Business Council for Sustainable Energy accreditation scheme (the *ABCSE accreditation scheme*) or the Clean Energy Council accreditation scheme (the *CEC accreditation scheme*); and
 - (b) if the unit is a grid-connected power system — accredited for grid-connected power systems under the ABCSE accreditation scheme or the CEC accreditation scheme; and

Regulation 20AC

- (c) if the unit is a wind system — endorsed for wind systems under the ABCSE accreditation scheme or the CEC accreditation scheme; and
 - (d) if the unit is a hydro system — endorsed for hydro systems under the ABCSE accreditation scheme or the CEC accreditation scheme; and
 - (e) who is not, or who are not, the subject of a declaration under regulation 47.
- (3) The electrical wiring associated with the installation of the unit was undertaken by an electrical worker holding an unrestricted license for electrical work issued by the State or Territory authority for the place where the unit was installed.
- (4) All local, State or Territory government requirements have been met for:
 - (a) the siting of the unit; and
 - (b) if the unit is attached to a building or structure — the attachment of the unit to the building or structure; and
 - (c) if the unit is grid-connected — the grid connection of the system.
- (5) Before any certificates are created for the unit, the person who is entitled to create the certificates for the unit obtains:
 - (a) a written statement by the installer of the unit stating:
 - (i) the name of the designer and of the installer of the unit; and
 - (ii) the ABCSE accreditation scheme or CEC accreditation scheme classification and accreditation number of the installer and designer of the unit; and
 - (iii) that the installer has public liability insurance of at least \$5 million; and
 - (iv) that the installer:
 - (A) is bound by the Clean Energy Council's Code of Conduct; and
 - (B) has complied with that code of conduct for the installation of the unit; and

Regulation 20AC

- (b) a written statement by the owner or installer of the unit that all local, State or Territory government requirements have been met for:
 - (i) the siting of the unit; and
 - (ii) if the unit is attached to a building or structure — the attachment of the unit to the building or structure; and
 - (iii) if the unit is grid-connected — the grid connection of the system; and
- (c) a copy of any documentation required, by the laws of the jurisdiction in which the unit was installed, to be provided to the owner of the unit certifying that the electrical installation of the unit complies with laws relating to safety and technical standards; and
- (d) a written statement by the installer of the unit that the installation complies with the following as in force from time to time:
 - (i) AS/NZS 3000, *Wiring Rules*;
 - (ii) AS/NZS 1768, *Lightning protection*;
 - (iii) if the unit is an on-grid system — AS 4777, *Grid connection of energy systems via inverters*; and
- (e) for a unit that is a solar (photovoltaic) system:
 - (i) a written statement by the installer of the unit that the installation complies with the following as in force from time to time:
 - (A) AS/NZS 5033, *Installation of photovoltaic (PV) arrays*;
 - (B) AS/NZS 1170.2, *Structural design actions, Part 2: Wind actions*; and
 - (C) if the unit is an off-grid system — AS/NZS 4509.1, *Stand-alone power systems, Part 1: Safety and installation* and AS 4086.2, *Secondary batteries for use with stand-alone power systems, Part 2: Installation and maintenance*; and
 - (ii) a written statement by the installer of the unit that the installer has at the time of the installation used a model of a photovoltaic module listed

in *AS/NZS 5033 Compliant PV Modules* as in force from time to time and available at <http://www.cleanenergycouncil.org.au>; and

- (iii) if the system uses an inverter — a written statement by the installer of the unit that the installer has at the time of the installation used a model of grid-connect inverter listed in *Tested and Approved Grid Connected Inverters* as in force from time to time and available at <http://www.cleanenergycouncil.org.au>; and
- (f) for a unit that is a wind system — a written statement by the installer of the unit that the installation complies with the following as in force from time to time:
 - (i) *AS/NZS 1170.2, Structural design actions, Part 2: Wind actions*;
 - (ii) if the unit is an off-grid system — *AS/NZS 4509.1, Stand-alone power systems, Part 1: Safety and installation* and *AS 4086.2, Secondary batteries for use with stand-alone power systems, Part 2: Installation and maintenance*.

Note For subparagraph (a) (iv), the Clean Energy Council's Code of Conduct is available at <http://www.cleanenergycouncil.org.au>.

- (6) Subregulation (3) does not apply to electrical wiring if:
 - (a) the unit is not grid-connected; and
 - (b) the wiring does not involve alternating current of 50 or more volts; and
 - (c) the wiring does not involve direct current of 120 or more volts; and
 - (d) before any certificates are created for the unit, the person who is entitled to create the certificates for the unit obtains a written statement by the installer of the unit that:
 - (i) the unit is not grid-connected; and
 - (ii) an electrical worker holding an unrestricted license for electrical work issued by the State or Territory authority for the place where the unit was installed undertook all wiring of the unit that involves:
 - (A) alternating current of 50 or more volts; or
 - (B) direct current of 120 or more volts.

Regulation 20A

20A Assignment of small generation unit certificates (Act s 23C)

For subsection 23C (2) of the Act, a right to create a certificate for a small generation unit under regulation 19D may be assigned for a 1-, 5- or 15-year period.

20B Election to not create certificates (Act s 23E)

For the definition of *qualifying small generation unit* in subsection 23E (5) of the Act, a kind of small generation unit is a device:

- (a) with an energy source that is solar (photovoltaic); and
- (b) that has a kW rating from 10 kW to 100 kW (inclusive); and
- (c) that generates from 25 MWh to 250 MWh (inclusive) of electricity each year.

20BA Record keeping for small generation units

For paragraph 160 (2) (d) of the Act, a registered person must keep any document relevant to ascertaining the matters mentioned in regulation 20AC.

Division 2.4 Solar water heater and small generation unit returns

20C Information to be included in return (Act s 23F)

For paragraph 23F (2) (d) of the Act, a solar water heater return and small generation unit return must include the following information:

- (a) the year to which the return relates;
- (b) the person's registration number;
- (c) the telephone number, fax number and e-mail address (if any) of the person;

- (d) for a solar water heater return, the following:
 - (i) the number of units installed in the year;
 - (ii) details of any certificates assigned under subsection 23 (2) of the Act;
 - (iii) the number of certificates found ineligible for registration in the year;
 - (iv) the reasons for certificates being found ineligible for registration in the year;
- (e) for a small generation unit return, the following:
 - (i) the number and type of unit for which a certificate was created in the year and the period of time for which the certificate was created;
 - (ii) details of any certificates assigned under subsection 23C (2) of the Act;
 - (iii) the number of certificates found ineligible for registration in the year;
 - (iv) the reasons for certificates being found ineligible for registration in the year;
- (f) the process used by the person to ensure that certificates created or assigned under Subdivision B or BA of Division 4 of Part 2 of the Act are eligible for registration.

Note For other information that must also be included in the return, see Act, subsection 23F (2).

Division 2.5 Suspending accreditation of a power station

20DA Matters relevant to a decision to suspend the accreditation of a power station (Act s 30D)

- (1) For subsection 30D (4A) of the Act, the Regulator must have regard to the following matters:
 - (a) whether the excess is material when measured against the baseline applicable to the excess station concerned;
 - (b) whether the shortfall is material when measured against the baseline applicable to the shortfall station concerned;

Regulation 20D

- (c) whether the availability or amount of the relevant supply varied during the year for reasons that were beyond the control of the shortfall station or the excess station, as the case may be;
- (d) whether the pattern of distribution of the relevant supply between the excess station and the shortfall station was occurring before 1 January 1997;
- (e) whether the primary purpose of the distribution of the relevant supply between the excess station and the shortfall station was to increase the efficiency with which a product other than electricity was produced;
- (f) the relative energy conversion efficiencies of the excess station and the shortfall station;
- (g) if the shortfall station was permanently closed or temporarily non-operational during the year — the reasons for the closure or temporary lack of operation of the power station;
- (h) whether the relevant supply was distributed from the shortfall power station to the excess station for the purpose of displacing fossil fuel use at the excess station.

Note 1 **Excess station**, **relevant supply** and **shortfall station** have the same meanings as in section 30D of the Act.

Note 2 **Eligible renewable energy source** and **renewable energy certificate** have the same meanings as in subsection 5 (1) of the Act.

- (2) In this regulation:

material, in relation to an excess or shortfall, means an excess or shortfall greater than 2% of the baseline of the station concerned, or the amount of electricity that would need to be generated to create 2000 renewable energy certificates under the Act, whichever is less.

20D Circumstances for suspending accreditation of an accredited power station (Act s 30E)

For subsection 30E (5) of the Act, the Regulator may suspend the accreditation of an accredited power station if:

- (a) the power station no longer generates electricity using an eligible renewable energy source; or

Regulation 20E

- (b) the power station is in the national electricity market and no longer uses standard metering that meets the requirements set by the National Electricity Rules; or
- (c) the power station is not in the national electricity market and no longer uses metering which allows the Regulator to determine the amount of electricity generated by the power station.

**Division 2.6 Varying 1997 eligible renewable
power baseline for an accredited
power station**

**20E Circumstances for varying 1997 eligible renewable
power baseline for an accredited power station
(Act s 30F)**

Application made to Regulator

- (1) For subsections 30F (1) and (2) of the Act, the Regulator may vary the 1997 eligible renewable power baseline for an accredited power station if:
 - (a) one or more of the following situations arise:
 - (i) the nominated person for the power station becomes aware that information used to determine the baseline was inaccurate, misleading or incomplete; or
 - (ii) the nominated person for the power station becomes aware of an error in the determination of the baseline; or
 - (iii) an action or policy of the Commonwealth Government reduces the power station's ability to generate electricity using an eligible renewable energy source for a sustained period (for example, if the action or policy requires water to be diverted from one power station to another power station); and

Regulation 20E

- (b) the nominated person makes an application to the Regulator in the manner set out in subregulation (3), to vary the 1997 eligible renewable power baseline; and
- (c) the Regulator considers the application, taking into account, as appropriate, the matters set out in subregulation (4), and decides that the 1997 eligible renewable power baseline should be varied.

On Regulator's own initiative

- (2) For subsections 30F (1) and (2) of the Act, the Regulator may, on his or her own initiative, vary the 1997 eligible renewable power baseline for an accredited power station if:
 - (a) the Regulator becomes aware that 1 or more of the following situations has arisen:
 - (i) that information used to determine the baseline was inaccurate, misleading or incomplete;
 - (ii) that there is an error in the determination of the baseline;
 - (iii) an action or policy of the Commonwealth Government reduces the power station's ability to generate electricity using an eligible renewable energy source for a sustained period (for example, if the action or policy requires water to be diverted from one power station to another power station); and
 - (b) the Regulator gives the nominated person written notice stating:
 - (i) that the Regulator is considering whether to vary the baseline; and
 - (ii) the reasons for the possible variation; and
 - (iii) that the nominated person may give to the Regulator, by the date and in the form (if any) specified in the notice, any information that may assist the Regulator in deciding whether to vary the baseline; and

Regulation 20E

- (c) the Regulator, having become aware of the situation and taking into account any information provided by the nominated person in response to a notice under paragraph (b), decides that the 1997 eligible renewable power baseline should be varied.

Form of application

- (3) An application by a nominated person for an accredited power station for a variation of the 1997 eligible renewable power baseline for the power station:
 - (a) must be in writing; and
 - (b) must state the circumstance in paragraph (1) (a) on the basis of which the request is made; and
 - (c) must include, or be accompanied by, a statement explaining the reasons why the variation should be made and setting out any other relevant information.

Special considerations

- (4) If the nominated person for a hydro-electric power station requests a variation of the 1997 eligible renewable power baseline for the power station on the basis of the situation mentioned in subparagraph (1) (a) (iii), the Regulator must, in deciding whether to vary the baseline, consider the following matters:
 - (a) whether any water diverted to or from the power station is a direct result of an action or policy of the Commonwealth Government;
 - (b) the release patterns of any diverted water flows;
 - (c) whether any diverted water flows pass through the power station;
 - (d) if any water was diverted from the power station — the water-to-generation ratio of the power station;
 - (e) if the power station is part of a group of interconnected power stations — the water-to-generation ratio of the group of interconnected power stations.

Regulation 20F

20F Notification of determination under regulation 20E

- (1) If the Regulator makes a determination varying the 1997 eligible renewable power baseline for an accredited power station (whether at the request of the nominated person for the power station or on his or her own initiative), the Regulator must, as soon as practicable after making the determination, give to the nominated person:
 - (a) a copy of the determination; and
 - (b) a statement of the reasons for the determination.
- (2) If, after considering a request from a nominated person for an accredited power station, the Regulator makes a determination not to vary the 1997 eligible renewable power baseline for the power station, the Regulator must, as soon as practicable after making the determination, give to the nominated person:
 - (a) a copy of the determination; and
 - (b) a statement of the reasons for the determination.

Note A determination varying the 1997 eligible renewable power baseline for an accredited power station is a reviewable decision under section 66 of the Act.

Part 2A Clearing house for small-scale technology certificates

20G Operation of clearing house

- (1) For subsection 30U (1) of the Act, the Regulator may operate the clearing house as part of the register of small-scale technology certificates.
- (2) The clearing house transfer list is to be:
 - (a) maintained by electronic means; and
 - (b) made available for inspection on the internet.
- (3) The Regulator must ensure that the clearing house transfer list is kept up to date.
- (4) A person is not entitled to use the clearing house unless the person agrees to the terms and conditions determined by the Regulator for use of the clearing house.
- (5) The Regulator must make the terms and conditions available to a person proposing to use the clearing house.

20H Application to enter small-scale technology certificates into clearing house

- (1) For paragraph 30K (2) (c) of the Act, an application must be accompanied by the following information:
 - (a) the applicant's ABN and ACN (if any);
 - (b) the name and contact details of a contact person for the application;
 - (c) whether the applicant is registered for GST or required to be registered for GST;
 - (d) the bank account details of an Australian bank into which the Regulator is to make payments to the applicant for the sale of the applicant's small-scale technology certificates;

Regulation 20I

- (e) the unique identification code for each small-scale technology certificate proposed to be entered into the clearing house;
 - (f) if the applicant is registered for GST or required to be registered for GST — whether there is any reason why the transfer of any of the applicant's small-scale technology certificates to a purchaser under section 30N of the Act would not be a taxable supply.
- (2) For paragraph 30K (2) (d) of the Act, the application must be accompanied by documents to establish the applicant's identity.
- (3) Subregulations (1) and (2) do not apply if:
- (a) the transferee has previously provided the information and documents to the Regulator; and
 - (b) the information and documents remain current.

20I Entering small-scale technology certificates into the clearing house

For subsection 30L (1) of the Act, if more than 1 small-scale technology certificate is included in an application under section 30K of the Act, the Regulator may, subject to subsection 30L (2) of the Act, include the certificates on the clearing house transfer list in the order in which the Regulator considers appropriate.

20J Removing small-scale technology certificates from clearing house transfer list

For paragraph 30U (2) (d) of the Act, the Regulator may remove a small-scale technology certificate from the clearing house transfer list if:

- (a) the certificate has, for any reason, ceased to be valid; or
- (b) the removal of the certificate is necessary to comply with a court order; or
- (c) the Regulator decides to withdraw the certificate from the list under regulation 20K.

Regulation 20K

20K Regulator may withdraw small-scale technology certificates from clearing house

- (1) This regulation applies if a small-scale technology certificate is on the clearing house transfer list and the registered owner of the certificate transfers the certificate to another person (the *transferee*) otherwise than under Part 2A of the Act.
- (2) For paragraph 30U (2) (c) of the Act, the Regulator may withdraw the certificate from the clearing house unless the transferee provides the Regulator with the following information and documents within the time specified in subregulation (3):
 - (a) the transferee's ABN and ACN (if any);
 - (b) the name and work contact details of a contact person for the certificate;
 - (c) whether the transferee is registered for GST or required to be registered for GST;
 - (d) the bank account details of an Australian bank into which the Regulator is to make payments to the transferee for the transfer of the certificate;
 - (e) if the transferee is registered for GST or required to be registered for GST — whether there is any reason why the transfer of any of the transferee's certificates to a purchaser under section 30N of the Act would not be a taxable supply;
 - (f) documents to establish the applicant's identity.
- (3) The information and documents must be provided to the Regulator by electronic communication:
 - (a) within 7 days after the certificate is transferred to the transferee; or
 - (b) no later than the day the certificate is listed at the top of the clearing house transfer list;whichever occurs first.
- (4) The Regulator must, within 7 days after withdrawing the certificate from the clearing house, notify the transferee in writing of the withdrawal.

Regulation 20L

- (5) Subregulation (2) does not apply if:
 - (a) the transferee has previously provided the information and documents to the Regulator; and
 - (b) the information and documents remain current.

20L Owner may request Regulator to withdraw small-scale technology certificates

- (1) The registered owner of a small-scale technology certificate on the clearing house transfer list may, in writing, request the Regulator to withdraw the certificate from the clearing house.
- (2) The request must be made by electronic communication to the Regulator.
- (3) The electronic communication must be in the form specified by the Regulator.

20M Persons not entitled to purchase small-scale technology certificates through clearing house

- (1) For subsection 30M (2) of the Act, a person is not entitled to make an application to purchase a small-scale technology certificate unless, before the person makes the application, the person is registered for GST and provides the Regulator with the following information and documents:
 - (a) the person's ABN or ACN (if any);
 - (b) the name and work contact details of a contact person for the certificate;
 - (c) the bank account details of an Australian bank into which the Regulator is to make any refunds to the person under the Act;
 - (d) whether there is any reason why the transfer of the certificate to the person under section 30N or subsection 30P (3) of the Act would not be a taxable supply; and
 - (e) documents to establish the applicant's identity.
- (2) Subregulation (1) does not apply if:
 - (a) the person has previously provided the information and documents to the Regulator; and

Regulation 200

- (b) the information and documents remain current.

20N Small-scale technology certificates to be transferred or created within 3 days

- (1) For paragraph 30U (2) (b) of the Act, if section 30N of the Act applies to an application to purchase a small-scale technology certificate, the Regulator must, in accordance with subsection 30N (2) of the Act, transfer the certificate within 3 business days after the GST inclusive clearing house price accompanying the application is received as cleared funds in the Regulator's bank account.
- (2) For paragraph 30U (2) (b) of the Act, if section 30P of the Act applies to an application to purchase a small-scale technology certificate, the Regulator must, in accordance with subsection 30P (2) of the Act, create the certificate within 3 business days after the GST inclusive clearing house price accompanying the application is received as cleared funds in the Regulator's bank account.

20O Refunds

- (1) This regulation is made for subparagraph 30U (2) (i) (i) of the Act and applies if the Regulator:
 - (a) has transferred 1 or more certificates to a purchaser; and
 - (b) is required under paragraph 30N (3) (b) of the Act to pay the seller the clearing house price for each certificate.
- (2) The Regulator must pay into the purchaser's bank account an amount equal to 10% of the clearing house price for each certificate.
- (3) In this regulation:

bank account, for a purchaser, means the purchaser's bank account, the details of which have been provided to the Regulator under paragraph 20M (c).

Regulation 20P

20P GST registration

- (1) This regulation applies if the registered owner of a certificate that is on the clearing house transfer list becomes registered, or required to be registered, for GST, or ceases to be registered, or required to be registered, for GST, before the certificate is transferred to a purchaser under subsection 30N (2) of the Act.
- (2) For subsection 30U (1) of the Act, the registered owner must notify the Regulator that the owner has become registered, or required to be registered, for GST or has ceased to be registered, or required to be registered, for GST.
- (3) The notice must:
 - (a) be made by electronic communication; and
 - (b) be communicated to the Regulator within 7 days after the registered owner becomes registered, or required to be registered, for GST or ceases to be registered, or required to be registered, for GST.

Part 3 Acquisition of electricity

21A Prescribed person or body

For paragraphs 31 (2) (c) and 32 (1) (a) and section 34 of the Act, the IMO is prescribed.

21 Amount of electricity acquired

- (1) For subsection 31 (3) of the Act, the amount of electricity acquired under a relevant acquisition is:
 - (a) if the electricity is acquired from AEMO or IMO — the amount worked out on the basis of metering data used for AEMO or IMO settlement statements; or
 - (b) if the electricity is acquired directly from the person who generated the electricity at the interface between the transmission and distribution system — the amount worked out using:
 - (i) AEMO or IMO equivalent settlement data; or
 - (ii) if the person who generated the electricity and the liable entity are not in the same distribution network — customer purchase data adjusted to the node, or node equivalent, by using the applicable distribution loss factor; or
 - (iii) generation data adjusted to the node, or node equivalent, by using the applicable marginal loss factor or equivalent; or
 - (c) if the electricity is used outside the site of generation but in the same distribution network — the amount worked out using, depending on the applicable contractual arrangements:
 - (i) the amount generated, as metered at the power station's grid connection point; or
 - (ii) the acquisition as metered at the customer's grid connection point; or

Regulation 22

- (d) if the electricity is acquired at the site of the generation — the amount of metered electricity at the point on which the contractual arrangement is based; or
 - (e) if none of paragraphs (a) to (d) applies:
 - (i) the amount of metered or calculated electricity provided at the interface between the transmission and distribution system; or
 - (ii) the amount of metered or calculated electricity at the point at which ownership of the electricity changes, in accordance with contractual arrangements.
- (2) In paragraphs (1) (b), (c), and (e), the method of calculation used is to be chosen by the Regulator after consultation with the liable entity.

22 Capacity of grids

For subsection 31 (3) of the Act, the capacity of a grid is the sum of all installed electricity generation capacity of the grid other than:

- (a) standby plant; and
- (b) privately owned domestic generators.

Part 3A Partial Exemption Certificates

Division 1 Interpretation

22A Interpretation

- (1) In this Part and Schedule 6:

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

ACN has the same meaning as in the *Corporations Act 2001*.

acquired has the meaning given by subregulation 22A (8).

activity group has the meaning given by subregulation 22A (9).

applicant means a prescribed person that makes an application for a partial exemption certificate.

ASTM followed by a number (for example, ASTM D6347/D6347M-99) means a standard of that number issued by ASTM International and, if a date is included, of that date.

Note ATSM means the American Society for Testing and Materials.

carbon steel means material which:

- (a) contains by mass more iron (Fe) than any other single element; and
- (b) has a carbon (C) concentration less than 2%.

coke oven coke has the same meaning as in the *National Greenhouse and Energy Reporting Regulations 2008*.

condensate has the same meaning as in the *Excise Act 1901*.

controlling corporation means a corporation to which paragraph 51 (xx) of the Constitution applies that does not have a holding company incorporated in Australia.

Department of Climate Change and Energy Efficiency means the Department administered by the Minister who administers the *National Greenhouse and Energy Reporting Act 2007*.

Regulation 22A

eligible petroleum feedstocks means any 1 or more of the following that were not produced through the conduct of an emissions-intensive trade-exposed activity carried on in Australia:

- (a) catalytic cracker feedstocks that are processed in the catalytic cracker in carrying on the emissions-intensive trade-exposed activity and have a density of 0.84 to 0.98 kg/L at 15 °C and 1 atmosphere;
- (b) hydro-cracker unit feedstocks that are processed in the hydro-cracking unit in carrying on the emissions-intensive trade-exposed activity and have a density of 0.84 to 0.98 kg/L at 15 °C and 1 atmosphere;
- (c) reformer unit feedstocks that are used to produce reformat in carrying on the emissions-intensive trade-exposed activity and have a density of 0.6 to 0.80 kg/L at 15 °C and 1 atmosphere;
- (d) alkylation unit feedstocks that are used to produce alkylate in carrying on the emissions-intensive trade-exposed activity and have a density of 0.55 to 0.62 kg/L at 15 °C and 1 atmosphere;
- (e) bitumen feedstocks that are used to produce bitumen in carrying on the emissions-intensive trade-exposed activity and have a density greater than or equal to 0.95 kg/L at 15 °C and 1 atmosphere;
- (f) lubricant base stock feedstocks that are used to produce lubricant base stocks in carrying on the emissions-intensive trade-exposed activity and have a density of 0.84 to 0.98 kg/L at 15 °C and 1 atmosphere.

facility has the meaning given by section 9 of the *National Greenhouse and Energy Reporting Act 2007*.

financial control has the meaning given by subregulations 22K (4) and (5).

group has the meaning given by subregulation (2).

highly emissions-intensive has the meaning given in subregulation (3).

joint venture means an unincorporated enterprise carried on by 2 or more entities in common otherwise than as a partnership.

LGC means a large-scale generation certificate.

member has the meaning given by subregulation (4).

moderately emissions-intensive has the meaning given in subregulation (5).

operational control has the meaning given by subregulation (6).

product means a product that is specified in Division 3 of a Part in Schedule 6 as the basis for the issue of a partial exemption certificate in relation to the carrying on of an emissions-intensive trade-exposed activity.

REC means a renewable energy certificate.

referrable to a site has the meaning given in subregulation (7).

relevant financial year means:

- (a) if the application made under subsection 46A (1) of the Act for a year (the **application year**) is not for a site that meets the criteria for a new entrant site specified in subregulation 22ZD (3) — the financial year which ended 6 months before the application year; or
- (b) if the application made under subsection 46A (1) of the Act for the application year is for a site that meets the criteria for a new entrant site specified in subregulation 22ZD (3) — the financial year which began 6 months before the application year.

relevant product means:

- (a) in relation to an application for a partial exemption certificate:
 - (i) a product that is identified in the application as meeting the requirements specified in Division 3 of a Part in Schedule 6 as the basis for the issue of the certificate; or
 - (ii) a substance mentioned in paragraphs 664 (1) (a) to (e) of Schedule 6 that satisfies the requirements to be included in the kilolitres of product relevant for applying the electricity baseline for the activity of petroleum refining; and

Regulation 22A

- (b) in relation to a partial exemption certificate that has been issued:
- (i) a product that meets the requirements specified in Division 3 of a Part in Schedule 6 as the basis for the issue of the certificate; or
 - (ii) a substance mentioned in paragraphs 664 (1) (a) to (e) of Schedule 6 that satisfies the requirements to be included in the kilolitres of product relevant for applying the electricity baseline for the activity of petroleum refining.

saleable quality has the meaning given in regulation 22C.

stabilised crude petroleum oil has the meaning given in the Australian Taxation Office Interpretative Decision, ATO ID 2008/154, published on 18 November 2008.

unleaded petrol means all grades of unleaded petrol meeting Australian or international standards, including standard unleaded petrol, premium unleaded petrol and other proprietary forms of unleaded petrol.

- (2) Entities are taken to be a ***group*** if the entities are a controlling corporation's group under the *National Greenhouse and Energy Reporting Act 2007*.
- (3) An emissions-intensive trade-exposed activity is ***highly emissions-intensive*** if the activity is classified as a highly emissions-intensive activity in Division 2 of the relevant Part in Schedule 6 for the activity.
- (4) An entity is a ***member*** of a controlling corporation's group if the entity is a member of the controlling corporation's group under the *National Greenhouse and Energy Reporting Act 2007*.
- (5) An emissions-intensive trade-exposed activity is ***moderately emissions-intensive*** if the activity is classified as a moderately emissions-intensive activity in Division 2 of the relevant Part in Schedule 6 for the activity.

Regulation 22A

- (6) An entity is taken to have ***operational control*** over a facility if the entity has operational control of the facility under the *National Greenhouse and Energy Reporting Act 2007*.
- (7) An amount or volume of a relevant product that is identified in an application for a partial exemption certificate is ***referrable to a site*** only if:
 - (a) the site is nominated in the application for the certificate in relation to the product; and
 - (b) the Regulator is satisfied that the nomination meets the conditions specified in subregulation 22B (1); and
 - (c) the Regulator is satisfied that the amount or volume of relevant product meets the conditions specified in subregulation 22B (2).
- (8) Electricity is ***acquired*** for use at a site only if the electricity is used at the site and, in relation to that electricity, there was a relevant acquisition between the point of generation of the electricity and the point of use.
- (9) If an emissions-intensive trade-exposed activity is, or is to be, carried on partly at 1 site and partly at 1 or more different sites, then all of those sites constitute an ***activity group*** if:
 - (a) the processes involved in the transformation relevant to the carrying on of the activity occur, or will occur:
 - (i) at those different sites; and
 - (ii) as part of the same production process; and
 - (b) for the activity of petroleum refining — the products produced from relevant products are transferred between the sites in order to conduct any of the processes listed in paragraphs 662 (1) (a) to (d) of Schedule 6; and
 - (c) for any other activity — the production of the relevant product from the activity involves the transfer of an intermediate product between the sites in order to produce the relevant product.

Regulation 22B

22B Conditions for production to be referrable to a site

- (1) For paragraph 22A (7) (b), the conditions for the nomination of a site in relation to an amount or volume of a relevant product are as follows:
 - (a) the relevant product in relation to which a site is nominated is, or will be, the product of an emissions-intensive trade-exposed activity that is, or is to be, carried on wholly or partly at the nominated site;
 - (b) only 1 site is to be nominated in respect of an amount or volume of relevant product;
 - (c) the site is not a site at which the emissions-intensive trade-exposed activity is, or is to be, carried on only in an ancillary way.
- (2) For paragraph 22A (7) (c), the conditions that the amount or volume of relevant product must meet are as follows:
 - (a) if the amount or volume of relevant product is identified in the application as the product of a single site — the site:
 - (i) is not part of an activity group; or
 - (ii) if the site is part of an activity group, all other sites in the activity group are sites at which the activity is, or is to be, only carried on in an ancillary way;
 - (b) if the amount or volume of relevant product is identified in the application as the product of each site nominated in an activity group — the amount or volume is calculated in accordance with the following formula:

$$PT \times \frac{ES}{ET}$$

where:

PT is the total amount or volume of the relevant product produced, or to be produced, from the emissions-intensive trade-exposed activity at all of the sites that are part of the same activity group.

ES is a reasonable estimate of the following amounts of electricity:

- (a) if 80% or more of the electricity used at the site is used for the purpose of carrying on the activity —

the amount of electricity (expressed in megawatt hours) acquired for use at the site; or

- (b) if less than 80% of the electricity used at the site is used for the purpose of carrying on the activity — the amount of electricity (expressed in megawatt hours) acquired for use in carrying out the activity.

ET is the sum of all the estimated amounts of electricity (**ES**) for all of the sites in the activity group (other than sites at which the emissions-intensive trade-exposed activity is, or is to be, only carried on in an ancillary way).

22C Meaning of *saleable quality*

- (1) In this Part and Schedule 6, ***saleable quality*** is intended to have its ordinary meaning as understood by participants in the relevant market, subject to subregulations (2) to (5).
- (2) A product is taken to be of saleable quality if it is produced to a level at which it would ordinarily be considered by participants in the relevant market:
 - (a) to be the output of a process carried on as part of an emissions-intensive trade-exposed activity; and
 - (b) to have a commercial value as that output.

Note On this basis, the output may meet particular industry standards or specifications (either general specifications or those set by particular customers). It may also meet internal standards by which it can be used by the firm as part of another process conducted by the firm.

Outputs that are of saleable quality do not need to be sold in the year of production. Therefore, an output that is produced and entered on an inventory can be of saleable quality.

- (3) A sub-standard product that is discarded is taken not to be of saleable quality.
- (4) A product that is recycled back into the same emissions-intensive trade-exposed activity to produce a new output is taken to be of saleable quality only once.

Examples

- 1 Metal that is re-melted in the same equipment in which it was produced.
- 2 Paper that is re-inputted into a paper making process.

Regulation 22D

- (5) Material that is scrapped or lost before it is packaged as a product that is of saleable quality:
 - (a) is taken not to be of saleable quality; and
 - (b) is taken not to be included in an amount of product that is of saleable quality that is to be counted for the purpose of calculating a liable entity's partial exemption.

Division 2 Emissions-intensive trade-exposed activities

22D Emissions-intensive trade-exposed activities

For the purposes of paragraph (b) of the definition of *emissions-intensive trade-exposed activity* in section 5 of the Act, each activity specified in Division 1 of a Part (other than Part 1) in Schedule 6 is prescribed.

Note 1 Other Divisions in a Part in Schedule 6 set out information that is required for the purposes of calculating the amount of a liable entity's partial exemption.

Note 2 After regulations (the *CPRS Regulations*) made for the purposes of subsection 167 (1) of the *Carbon Pollution Reduction Scheme Act 2010* come into operation, Division 1 of each Part in Schedule 6 will cease to have effect. At that time, an activity that is taken to be an emissions-intensive trade-exposed activity for the purposes of the emissions-intensive trade-exposed program under the CPRS Regulations will be an emissions-intensive trade-exposed activity for the purposes of these Regulations — see paragraph (a) of the definition of *emissions-intensive trade-exposed activity* in section 5 of the Act.

Note 3 However, the other Divisions of a Part in Schedule 6 will continue to apply for the purposes of calculating the amount of a liable entity's partial exemption.

Division 3 Publication of information

22E Information about partial exemptions to be published — section 38C of the Act

- (1) For paragraph 38C (1) (c) of the Act, the name of each of the emissions-intensive trade-exposed activities set out in the partial exemption certificates to which the partial exemption relates is required.

- (2) For subsection 38C (2) of the Act, for a year, the name of each person to whom a partial exemption certificate is issued and the emissions-intensive trade-exposed activity set out in the partial exemption certificate is required to be published within 14 days after the certificate is issued.
- (3) For subsection 38C (2) of the Act, for a year, the total amount of partial exemptions given for each emissions-intensive trade-exposed activity is required to be published by 1 October in the year to which the partial exemptions relate.

Division 4 Applications for partial exemption certificates

Subdivision A Who may apply — prescribed persons

22F Prescribed persons — subsection 46A (1) of the Act

This Subdivision prescribes persons for subsection 46A (1) of the Act.

22G Prescribed person — person with contract for supply of electricity to site

If:

- (a) a person is making an application under subsection 46A (1) of the Act in relation to a site and a year (the *application year*); and
- (b) the person (the *contracting person*) was a party to a contract for the supply of electricity consumed at the site during the whole, or part of, the year immediately preceding the application year; and
- (c) the contract was with the liable entity in relation to electricity consumed at the site during the period mentioned in paragraph (b); and
- (d) an emissions-intensive trade-exposed activity is to be carried on at the site during the application year; and

Regulation 22H

- (e) immediately before the day the application is made:
 - (i) the contracting person is a party to a contract for the supply of electricity consumed at the site; and
 - (ii) in relation to the site, activity and the application year there is no valid application before the Regulator, and there is no partial exemption certificate issued, for the activity, the site and the application year;

then the contracting person is a prescribed person for the activity, the site and the application year.

22H Prescribed person — liable entity with operational control

If:

- (a) a person has operational control of a facility immediately before the person makes an application under subsection 46A (1) of the Act in respect of a site and a year; and
- (b) an emissions-intensive trade-exposed activity is carried on at the site; and
- (c) the facility is the principal facility that is carried on at the site; and
- (d) the person is the liable entity for:
 - (i) over 30% of the electricity consumed at the site; or
 - (ii) the majority of the electricity consumed at the site that gives rise to a relevant acquisition;in the 6 months immediately preceding the day the person makes the application; and
- (e) immediately before the day the application is made in relation to the activity, the site and the year there is no valid application before the Regulator, and there is no partial exemption certificate issued for the activity, the site and the application year;

then the person is a prescribed person for the activity, the site and the year.

22I Prescribed person — liable entity for future activity

If:

- (a) immediately before a person makes an application in respect of a site and a year, an emissions-intensive trade-exposed activity is not yet carried on at the site; and
- (b) the emissions-intensive trade-exposed activity is to be carried on at the site during the application year; and
- (c) when the emissions-intensive trade-exposed activity is first to be carried on at the site the person will have operational control of the facility; and
- (d) the facility will be the principal facility that is carried on at the site; and
- (e) the person will be the liable entity for over 30% of the electricity consumed at the site during the application year; and
- (f) immediately before the day the application is made in relation to the activity, the site and the year there is no valid application before the Regulator, and there is no partial exemption certificate issued for the activity, the site and the application year;

then the person is a prescribed person for the activity, the site and the application year.

22J Prescribed person — person with a new contract for supply of electricity

If:

- (a) a person is making an application under subsection 46A (1) of the Act in relation to a site and a year; and
- (b) an emissions-intensive trade-exposed activity is to be carried on at the site during the year; and
- (c) immediately before the day the application is made for the site, there is no prescribed person of a kind mentioned in regulation 22G, 22H or 22I; and
- (d) the person is a party to a contract with a liable entity for a supply of electricity to be consumed at the site in the year; and

Regulation 22K

- (da) upon making the application under subsection 46A (1) of the Act, the person is not eligible to be a prescribed person under regulation 22G, 22H or 22I; and
- (e) immediately before the day the application is made in relation to the activity, the site and the application year there is no valid application before the Regulator, and there is no partial exemption certificate issued, for the activity, the site and the year;

then the person is a prescribed person in relation to the activity, the site and the year.

22K Prescribed person — nominated person

(1) If:

- (a) a person is a prescribed person (the *first person*) under regulation 22G, 22H, 22I or 22J for an emissions-intensive trade-exposed activity to be carried on at a site during a year; and
- (b) before the first person makes an application in respect of the site and the year under subsection 46A (1) of the Act, the first person gives the Regulator notice; and
- (c) the notice states that another person in relation to the principal facility carried on, or to be carried on, at the site may apply for a partial exemption certificate for the activity, the site and the year; and
- (d) the other person is a controlling person (see subregulation (3)) in relation to the principal facility; and
- (e) immediately before the day the application is made in relation to the activity, the site and the year there is no valid application before the Regulator, and there is no partial exemption certificate issued, for the activity, the site and the year;

then the other person is taken to be the prescribed person for the activity, the site and the year.

(2) The notice under subregulation (1) must be given in writing.

(3) **Controlling person**, in relation to the principal facility to be carried on at the site, means 1 of the following:

- (a) a person with operational control of the facility;

- (b) the controlling corporation that has a member of its group with operational control of the facility;
 - (c) a person that is not the operator of the facility who has financial control (see subregulation (4)) over the facility.
- (4) If a person (the ***operator***) has operational control over a facility, another person (the ***second person***) has ***financial control*** over the facility if:
- (a) under a contract between:
 - (i) the operator; and
 - (ii) the second person;the operator operates the facility on behalf of the second person; or
 - (b) under a contract between:
 - (i) the operator; and
 - (ii) the second person and 1 or more other persons;the operator operates the facility on behalf of the second person and those other persons; or
 - (c) the second person is able to control the trading or financial relationships of the operator in relation to the facility; or
 - (d) the second person has the economic benefits from the facility; or
 - (e) all of the following conditions are satisfied:
 - (i) the second person is a participant in a joint venture;
 - (ii) there is only 1 other participant in the joint venture;
 - (iii) the second person shares the economic benefits from the facility with the other participant;
 - (iv) the second person's share equals or exceeds the share of the other participant; or
 - (f) all of the following conditions are satisfied:
 - (i) the second person is a participant in a joint venture;
 - (ii) there are 2 or more other participants in the joint venture;
 - (iii) the second person shares the economic benefits from the facility with the other participants;
 - (iv) no other participant has a share of the economic benefits from the facility; or

Regulation 22L

- (g) all of the following conditions are satisfied:
 - (i) the second person is a partner in a partnership;
 - (ii) there are 2 or more other partners in the partnership;
 - (iii) the second person shares the economic benefits from the facility with the other partners;
 - (iv) no other partner has a share that exceeds the share of the second person; or
 - (h) the second person is able to direct or sell the output of the facility.
- (5) In determining whether the second person has that financial control, regard must be had to the economic and commercial substance of the matters mentioned in subregulation (4).

22L Prescribed person — liable entity changes

- (1) If:
- (a) a prescribed person has been granted a partial exemption certificate in relation to an emissions-intensive trade-exposed activity, site and year; and
 - (b) during the year the liable entity set out in the certificate ceases to be the liable entity in relation to the electricity consumed at the site; and
 - (c) a second liable entity begins to be the liable entity in relation to electricity consumed at the site; and
 - (d) the prescribed person applies again under subsection 46A (1) of the Act before the end of the year in relation to the activity, site, year and second liable entity;
- then the prescribed person is a prescribed person for the activity, the site, the year and the second liable entity.
- (2) If during the year:
- (a) the second liable entity ceases to be the liable entity in relation to the electricity consumed at the site; and
 - (b) a third liable entity begins to be the liable entity in relation to electricity consumed at the site; and

- (c) the prescribed person applies again under subsection 46A (1) of the Act before the end of the year in relation to the activity, site, year and third liable entity;

then the prescribed person is a prescribed person for the activity, the site, the year and the third liable entity.

22M Prescribed person — multiple liable entities

If:

- (a) a prescribed person has been granted a partial exemption certificate in relation to an emissions-intensive trade-exposed activity, site and year; and
- (b) at the start of the year there are 1 or more liable entities in relation to the electricity consumed at the site other than the liable entity set out in the certificate; and
- (c) the prescribed person has not been, or has not applied to be, a prescribed person under subregulation 22L (1) for the activity, site and year; and
- (d) the prescribed person applies again under subsection 46A (1) of the Act before the end of the year in relation to:
 - (i) the activity; and
 - (ii) the site; and
 - (iii) the year; and
 - (iv) the liable entity that is likely to be responsible for the most amounts of relevant acquisitions consumed at the site during the year by all the liable entities mentioned in paragraph (b) (other than the liable entity set out in the certificate);

then the prescribed person is a prescribed person for the activity, the site, the year and the second liable entity.

Example

Company A operates a zinc smelter at a site with 2 connection points to the National Electricity Market. The company has a different retailer for each of those connection points. The company would first apply in relation to one of the retailers and obtain the full value of the partial exemption for the emissions-intensive trade-exposed activity. The company would then apply for a second certificate for the second retailer by becoming a prescribed person under regulation 22M. Once approved, the first certificate would be reduced in accordance with regulation 22ZQ.

Regulation 22N

Subdivision B Information to be included in applications under subsection 46A (1) of the Act

22N Information to be included

- (1) This Subdivision prescribes information that must be included in an application under subsection 46A (1) of the Act.
- (2) The Subdivision is made for the purposes of paragraph 46A (2) (b) of the Act.

22O Information to be included with all applications

- (1) The following information is prescribed in relation to all applications under subsection 46A (1):
 - (a) the applicant's name, address and contact details;
 - (b) the applicant's ABN and ACN;
 - (c) the name and work contact details of a contact person for the application;
 - (d) a description of the basis upon which the applicant is a prescribed person;
 - (e) an explanation of how the emission-intensive trade-exposed activity will be carried on at the site in the year and how any requirements relating to the conduct of the activity will be met;
 - (f) an explanation of the amount or volume of relevant production and other numbers relevant to the application of the method in Division 5, including:
 - (i) the basis on which such amounts have been calculated; and
 - (ii) how any amounts or volumes of relevant product have been measured and the frequency of the measurements; and
 - (iii) how the nomination of amounts or volumes of a relevant product satisfy the conditions in regulation 22B; and
 - (iv) how any other requirements relating to those amounts have been met;

- (g) a statement of the amount of the partial exemption that should be set out in the partial exemption certificate and how that amount should be calculated in accordance with Division 5 (including any assumptions made about values or amounts not known at the time of the application).
- (2) The following information is also prescribed in relation to all applications made under subsection 46A (1) of the Act (other than an application of a kind mentioned in regulation 22S or 22T):
 - (a) a map that sets out the following:
 - (i) the site in respect of which the application is made;
 - (ii) where on the site the emission-intensive trade-exposed activities are carried on;
 - (iii) the sources of electricity generation that are part of the site and the nameplate rating (in MW) of each of those sources;
 - (iv) any point at which electricity is delivered to the site other than by means of an electricity grid with a capacity of 100 MW or more;
 - (v) how the site is connected to an electricity grid with a capacity that is 100 MW or more;
 - (b) the name of the liable entity (as referred to in paragraph 46A (1) (b) of the Act);
 - (c) if:
 - (i) an emission-intensive trade-exposed activity is proposed to be carried on at the site but is not, at the time of the application, carried on at the site; and
 - (ii) an approval is necessary to carry out the emission-intensive trade-exposed activity proposed at the site;a statement of what those approvals are and whether the prescribed person has obtained them at the time of making the application;
 - (d) information about any generation capacity that exists at the site and whether the generation gives rise to any relevant acquisitions;
 - (e) information about any electricity used at the site that is not a relevant acquisition because of subsection 31 (2) of the Act;

Regulation 22P

- (f) whether the prescribed person intends to apply to be a prescribed person under regulation 22M in relation to the activity, site and year in respect of a second liable entity at the site.

22P Information to be included in some applications only

If information or audit report provided to Department of Climate Change and Energy Efficiency

- (1) If:
 - (a) information or an audit report have previously been provided to the Department of Climate Change and Energy Efficiency; and
 - (b) the information or report deals with the amount or volume of relevant product that will be used in the determination of the liable entity's (being the liable entity mentioned in the application as referred to in paragraph 46A (1) (b) of the Act) partial exemption;

then the information or report is prescribed information in relation to an application under subsection 46A (1) of the Act made in respect of 2010.

Certain applications made for 2010

- (2) If:
 - (a) an application under subsection 46A (1) of the Act is made in respect of 2010; and
 - (b) there is an amount or volume of production mentioned in the application that will be used to determine the liable entity's (being the liable entity mentioned in the application as referred to in paragraph 46A (1) (b) of the Act) partial exemption; and
 - (c) there is information or a report of a kind that under subregulation (1) is prescribed in relation to the application; and

- (d) the amount or volume of production specified in the information or report is different to the amount mentioned in the application;

then information as to why those amounts differ is prescribed information in relation to the application.

Certain applications made in 2011 or a later year

- (3) In 2011 or a later year, if:
 - (a) an audit report has been prepared under the emissions-intensive trade-exposed assistance program; and
 - (b) the report deals with a site mentioned in an application under subsection 46A (1) of the Act;then the report is prescribed information.

22Q Information to be included in applications for new entrant site

- (1) An application under subsection 46A (1) of the Act for a site that meets the criteria for a new entrant specified in subregulation 22ZD (3) must also include:
 - (a) information about whether any contracts or other arrangements have been entered into to buy the emissions-intensive trade-exposed activity's output; and
 - Note* The information need not include the price of the output.
 - (b) information about commissioning or recommissioning of the equipment that is to carry on the emissions-intensive trade-exposed activity, including a description of when and how the equipment will be constructed, commissioned or recommissioned; and
 - (c) a statement by the person constructing, commissioning or recommissioning the principal equipment that is to be used to carry on the emissions-intensive trade-exposed activity as to whether the equipment:
 - (i) will be constructed, commissioned or recommissioned as described in the application; and
 - (ii) is likely to be ready to produce the relevant product; and

Regulation 22R

- (d) information in general terms about the arrangements that are in place to finance the installation of any equipment at the site; and
 - (e) a statement of any factors of which the applicant is aware that would stop or delay the carrying out of the emissions-intensive trade-exposed activity or the installation of any equipment at the site.
- (2) Paragraph (1) (c) applies only to principal equipment that has not been constructed, commissioned or recommissioned at the time of the application.

22R Information to be included in applications for significantly expanded site

- (1) An application under subsection 46A (1) of the Act for a year (the *application year*) and a site that meets the criteria for a significant expansion specified in subregulation 22ZD (4) must:
- (a) describe any relevant equipment that has been, or will be, installed or recommissioned and explain how the relevant equipment will increase the production of the relevant product in the financial year that began 6 months before the application year; and
 - (b) identify any relevant product the production of which is expected to increase in the financial year that began 6 months before the application year; and
 - (c) set out the amount or volume of the relevant product referable to the site that was produced during the financial year that ended 6 months before the application year; and
 - (d) set out the amount or volume of the relevant product that is reasonably likely to be produced during the financial year that began 6 months before the application year and is referable to the site; and
 - (e) state whether any other equipment is to be decommissioned or operated at a lower rate after the new equipment is installed or relevant existing equipment is recommissioned; and

- (f) state the maximum productive capacity of the equipment that:
 - (i) is at the site before the installation of the equipment mentioned in paragraph 22ZD (4) (b); and
 - (ii) may be used to produce the relevant product; and
 - (g) state the maximum productive capacity of all of the equipment that is to be used to produce the relevant product after:
 - (i) the commissioning of the equipment that is to be installed; and
 - (ii) any existing equipment that is to be decommissioned has been decommissioned; and
 - (h) identify any contracts or other arrangements that have been entered into to buy the output of the facility; and
- Note* The information need not include the price of the output.
- (i) for new equipment that is being installed at the time of the application, give information about the commissioning of the principal equipment that is to be used to carry on the emissions-intensive trade-exposed activity, including a description of when and how the equipment will be commissioned; and
 - (j) for new equipment that is being installed at the time of the application, include a statement by the person constructing the principal equipment that is to be used to carry on the activity as to whether the equipment:
 - (i) will be constructed as described in the application; and
 - (ii) is likely to be ready to produce the relevant product; and
 - (k) include information in general terms about the arrangements that are in place to finance the installation of any equipment at the site; and
 - (l) include a statement of any factors of which the applicant is aware that would stop or delay the carrying out of the emissions-intensive trade-exposed activity or the installation of any equipment at the site.

Regulation 22S

- (2) However, if more than 1 relevant product for an emissions-intensive trade-exposed activity is produced at a site, the information in subregulation (1) must relate only to each relevant product, the expected production of which is directly affected by the use of the equipment.

22S Information to be included if prescribed person is a person prescribed under regulation 22L

- (1) If an application under subsection 46A (1) of the Act is made by a prescribed person mentioned in subregulation 22L (1), in addition to the information mentioned in subregulation 22O (1), the application must:
- (a) specify the circumstances in which the liable entity (the *old liable entity*) mentioned in paragraph 22L (1) (b) ceased to be the liable entity; and
 - (b) provide evidence of the date on which the old liable entity ceased to be the liable entity and the date the liable entity mentioned in paragraph 22L (1) (c) (the *new liable entity*) became the liable entity; and
 - (c) provide evidence that both the old and new liable entity have been informed of the application.
- (2) If an application under subsection 46A (1) of the Act is made by a prescribed person mentioned in subregulation 22L (2), in addition to the information mentioned in subregulation 22O (1), the application must:
- (a) specify the circumstances in which the liable entity (the *old liable entity*) mentioned in paragraph 22L (2) (a) ceased to be the liable entity; and
 - (b) provide evidence of the date on which the old liable entity ceased to be the liable entity and the date the liable entity mentioned in paragraph 22L (2) (b) (the *new liable entity*) became the liable entity; and
 - (c) provide evidence that both the old and new liable entity have been informed of the application.

22T Information to be included if prescribed person is a person prescribed under regulation 22M

If an application under subsection 46A (1) of the Act is made by a prescribed person mentioned in regulation 22M in addition to the information mentioned in subregulation 22O (1), the application must:

- (a) include a description of the liable entities in relation to electricity consumed at the site and the amount of relevant acquisitions expected in relation to each liable entity in the year to which the partial exemption certificate relates; and
- (b) provide evidence that the liable entity specified in the certificate and the liable entity for the new certificate have been informed of the application.

22U Information to be verified

- (1) This regulation is made for the purposes of subsection 46A (3) of the Act.
- (2) Information that is required to be included in an application must be verified by statutory declaration by 1 of the following persons:
 - (a) a director of the applicant;
 - (b) a chief executive officer (however described) of the applicant;
 - (c) the chief financial officer (however described) of the applicant;
 - (d) the secretary of the applicant.

Subdivision BA Reports to accompany certain applications

22UA Reports to accompany certain applications

- (1) This Subdivision is made for paragraph 46A (2) (bb) of the Act and sets out the reports that must accompany certain applications under subsection 46A (1) of the Act.

Regulation 22UB

- (2) This subdivision applies to an application:
 - (a) for 2012 or a subsequent year; and
 - (b) that is made by a person who is a prescribed person under regulation 22G, 22H, 22I, 22J or 22K; and
 - (c) for which the amount of partial exemption applied for exceeds 15 000 MWh for the application year.

22UB Application to be accompanied by audit report

- (1) The application must be accompanied by an audit report that complies with this regulation.
- (2) The audit report must be prepared by:
 - (a) a person that is a registered company auditor under section 1280 of the *Corporations Act 2001*; or
 - (b) a company that is an authorised audit company under section 1299C of the *Corporations Act 2001*; or
 - (c) a registered greenhouse and energy auditor, within the meaning of the *National Greenhouse and Energy Reporting Act 2007*, who is registered as a Category 2 or 3 auditor under the *National Greenhouse and Energy Reporting Regulations 2008*.
- (3) The audit report must contain a statement by the person preparing the report as to whether:
 - (a) the activity set out in the application that is claimed to be an emissions-intensive trade-exposed activity complies, in all material respects, with each of the requirements in the description of the activity set out in Schedule 6; and
 - (b) the application presents, in all material respects, the amount or volume of the relevant product produced in each previous financial year that is relevant to the application:
 - (i) in accordance with the requirements for that amount or volume set out in Schedule 6; and
 - (ii) in accordance with the requirements in subregulation 22A (7) for the relevant product to be referable to the site mentioned in the application; and

- (iii) on a basis consistent with the measurement policies adopted and disclosed by the applicant in the application; and
- (c) for an application to which subregulation 22ZD (3) or (4) applies:
 - (i) the applicant's best-estimate assumptions are reasonable for the preparation of the new or expected additional production amounts or volumes of the relevant product; and
 - (ii) the new or expected additional production is, in all material respects, estimated on the basis of the best-estimate assumptions; and
 - (iii) the new or expected additional production is presented on a basis consistent, in all material respects, with the measurement policies adopted and disclosed by the applicant in the application.
- (4) The audit company or auditor mentioned in subregulation (2) must be independent of the applicant or applicants to the extent that a conflict of interest situation (within the meaning of the *National Greenhouse and Energy Reporting Regulations 2008*) does not arise in relation to the auditing of the application.
- (5) The person preparing the audit report must ensure that the audit to which the report relates is conducted in accordance with the relevant requirements for reasonable assurance engagements under:
 - (a) subject to regulation 22UC, the *National Greenhouse and Energy Reporting (Audit) Determination 2009*; or
 - (b) if a registered company auditor or authorised audit company is not a registered greenhouse and energy auditor, and does not wish to use the requirements in that instrument:
 - (i) ASAE 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*, issued by the Auditing and Assurance Standards Board; and
 - (ii) any other relevant auditing standard issued by the Auditing and Assurance Standards Board.

Regulation 22UC

22UC Application of *National Greenhouse and Energy Reporting (Audit) Determination 2009*

For paragraph 22UB (5) (a), a reference in the definition of *misstatement* in the *National Greenhouse and Energy Reporting (Audit) Determination 2009* to ‘the Act’ or ‘the Regulations’ is to be read as a reference to the *Renewable Energy (Electricity) Act 2000* and these Regulations.

Subdivision C Time and manner of lodging applications under section 46A of the Act

22V Time for lodging

This Subdivision is made for paragraph 46A (2) (c) of the Act.

22W Time for lodging — applications for 2010

- (1) An application under subsection 46A (1) of the Act for a partial exemption certificate in relation to 2010 made by a prescribed person mentioned in regulation 22G, 22H, 22I, 22J or 22K must be made on or before 1 December 2010.
- (2) An application under subsection 46A (1) of the Act for a partial exemption certificate in relation to 2010 made by a prescribed person mentioned in regulation 22L or 22M must be made before 14 January 2011.

22X Time for lodging — applications after 2010

- (1) An application under subsection 46A (1) of the Act for a partial exemption certificate in relation to year occurring after 2010 made by a prescribed person mentioned in regulation 22G, 22H, 22I, 22J or 22K must be made before 31 March of the year to which the application relates.
- (2) An application under subsection 46A (1) of the Act for a partial exemption certificate in relation to a year occurring after 2010 made by a prescribed person mentioned in regulation 22L must be made before 1 January of the year immediately following the year to which the application relates.

- (3) An application under subsection 46A (1) of the Act for a partial exemption certificate in relation to a year occurring after 2010 made by a prescribed person mentioned in regulation 22M must be made before 1 July of the year to which the application relates.

22Y Manner of lodging

- (1) An application under subsection 46A (1) of the Act must be sent by post or fax to the Regulator.
- (2) If the application is sent by fax, the original application must also be sent by post to the Regulator.

Division 5 Calculating amount of partial exemption

Subdivision A General

22Z Method for calculating amount of partial exemption

- (1) This Division is made for paragraph 46B (1) (a) of the Act and prescribes the method for calculating the amount of a liable entity's partial exemption for a year in relation to an emissions-intensive trade-exposed activity and site mentioned in an application under subsection 46A (1) of the Act.
- (2) For the purpose of calculating the liable entity's partial exemption in respect of the emissions-intensive trade-exposed activity, Divisions 2 and 3 of a Part in Schedule 6 set out, respectively:
 - (a) whether the activity is:
 - (i) highly emissions-intensive; or
 - (ii) moderately emissions-intensive; and
 - (b) the electricity baseline for calculating the amount of the liable entity's partial exemption in respect of the activity.
- (3) Subdivision B sets out the method for calculating the amount of the liable entity's partial exemption. Subregulation 22ZA (1) contains the formula for the calculation.

Regulation 22ZA

- (4) Subdivision C sets out matters relating to **ASP**, a factor in the formula.
- (5) Subdivision D sets out matters relating to **G**, a factor in the formula.
- (6) Subdivision E sets out the method for calculating the amount of a partial exemption where the applicant is a prescribed person because of regulation 22L or 22M.
- (7) Subdivision F requires the Regulator to estimate and publish the weighted average market price for a REC or LGC (see regulation 22ZH).

Subdivision B Method for calculation

22ZA Method

- (1) Subject to subregulation (3) and regulations 22ZF and 22ZG, the method for calculating the amount of the liable entity's partial exemption for the year in relation to the emissions-intensive trade-exposed activity and site mentioned in the application under subsection 46A (1) of the Act is:

$$PE^{ia}_t = EP^a \times ASP^{ia}_t \times k^a_t \times G^{ia}_t$$

where:

PE is the amount of the liable entity's partial exemption measured in megawatt hours.

^{*i*} represents the liable entity.

^{*a*} represents the emissions-intensive trade-exposed activity carried on at the site and mentioned in the application.

_{*t*} represents the year to which the application relates and during which the activity is, or is to be, carried on at the site.

EP is the electricity baseline set out in Division 3 of a Part (other than Part 1) in Schedule 6 in respect of the activity.

ASP is the amount or volume of relevant product produced by the activity as determined under Subdivision C.

k_t^a , for a year, is the partial exemption assistance rate for the activity for the year as follows:

- (a) for the 2010 application year — the following percentage:
 - (i) for a highly emissions-intensive activity — 21.60%;
 - (ii) for a moderately emissions-intensive activity — 14.40%;
- (b) for a subsequent application year — the percentage worked out under the formula in subregulation (2).

G is an adjustment for the generation or acquisition of electricity (that does not constitute a relevant acquisition) and is worked out under subregulation 22ZE (1) and expressed as a percentage.

- (2) For paragraph (b) of the factor k_t^a in subregulation (1), the formula is as follows:

$$\frac{[(LRET_t \times LGCprice_t) + (STC_t \times CHP_t) - (9500 \times a)]}{[(LRET_t \times LGCprice_t) + (STC_t \times CHP_t)]} \times [Activity\%]$$

where:

$LRET_t$ is the required GWh of renewable source electricity for the application year calculated in accordance with section 40 of the Act.

$LGCprice_t$ is:

- (a) for the 2011 application year — the Regulator's reasonable estimate (as published on the Regulator's website in accordance with regulation 22ZH) for the volume weighted average market price of a REC for the 12 month period ending on 30 September 2010; and
- (b) for a subsequent application year — the Regulator's reasonable estimate (as published on the Regulator's website in accordance with regulation 22ZH) for the volume weighted average market price of a LGC for the 12 month period ending on 30 September of the previous year.

Regulation 22ZA

STC_t is the value in GWh of small-scale technology certificates assumed to be created in the application year for the purposes of the small-scale technology percentage under paragraph 40A (3) (a) of the Act:

- (a) less any excess under subparagraph 40A (3) (d) (i) of the Act; or
- (b) plus any shortfall under subparagraph 40A (3) (d) (i) of the Act.

a is:

- (a) if the $LGCprice_t$ is equal to or more than \$40 — 40; or
- (b) if the $LGCprice_t$ is less than \$40 — the $LGCprice_t$.

CHP_t is:

- (a) for the 2011 application year — \$40; and
- (b) for a subsequent application year — the clearing house price as at 30 September of the year before the application year.

$Activity\%$ is:

- (a) for a highly emissions-intensive activity — 90%; and
- (b) for a moderately emissions-intensive activity — 60%.

Note To check if an activity is a highly emissions-intensive activity or a moderately emissions-intensive activity, see Division 2 of the relevant Part in Schedule 6 for the activity.

- (3) If a liable entity's partial exemption calculated for a year in accordance with subregulation (1) is a negative amount, the entity's partial exemption for the year is zero.
- (6) If there are multiple relevant products for the same emissions-intensive trade-exposed activity, the formula in subsection (1) must be applied to each of those products and the result summed to calculate the amount of the partial exemption.

Subdivision C Matters relating to factor *ASP*

22ZB Factor — *ASP*

- (1) For the factor *ASP* in subregulation 22ZA (1), the amount or volume of relevant product for 2010 is the amount or volume:
 - (a) that:
 - (i) was produced by the applicant in the financial year commencing on 1 July 2006, 1 July 2007 or 1 July 2008; or
 - (ii) if no relevant product was produced in any of those financial years — is reasonably likely to be produced in the financial year commencing on 1 July 2009; and
 - (b) that is set out in the application; and
 - (c) that the Regulator is, in accordance with regulation 22ZC, satisfied is accurate or is the best estimate of the amount or volume possible in all the circumstances; and
 - (d) is referable to the site mentioned in the application.
- (2) For the factor *ASP* in subregulation 22ZA (1), the amount or volume relevant product for a year after 2010 is the amount or volume that:
 - (a) is set out in the application; and
 - (b) the Regulator is, in accordance with regulation 22ZC, satisfied:
 - (i) is accurate or the best estimate of the amount or volume possible in all the circumstances; and
 - (ii) has been correctly calculated using the formula in subregulation (3).
- (3) For subparagraph (2) (b) (ii), the formula is:

$$SP^{ia}_{tfinprev} + EASP^{ia}_{tfincurr} + ST^{ia}_{tfincurr}$$

where:

$SP^{ia}_{tfinprev}$ is, subject to subregulations (4A) and (4B), the amount or volume of the relevant product produced in the financial year that ended 6 months before the year to which the

Regulation 22ZB

application relates and that is referrable to the site mentioned in the application.

$EASP^{ia}_{tfincurr}$ is the ***new or expected additional production*** (within the meaning of subregulation 22ZD (1)) for:

- (a) the liable entity; and
- (b) the site that meets:
 - (i) for a new entrant — 1 of the criteria specified in subregulation 22ZD (3); or
 - (ii) for a significant expansion — the criteria specified in regulation 22ZD (4).

$ST^{ia}_{tfincurr}$ is, subject to subregulation (4), the adjustment for the previous financial year's production, worked out using the formula:

$$SP^{ia}_{tfinprev} - SP^{ia}_{tfinprev-1} - EASP^{ia}_{tfinprev}$$

where:

$SP^{ia}_{tfinprev}$ is, subject to subregulations (4A) and (4B), the amount or volume of the relevant product produced in the financial year that ended 6 months before the year to which the application relates and that is referrable to the site mentioned in the application.

$SP^{ia}_{tfinprev-1}$ is, subject to subregulation (5), the amount or volume of the relevant product produced in the financial year that began 30 months before the year to which the application relates and that is referrable to the site mentioned in the application.

$EASP^{ia}_{tfinprev}$ is the amount or volume that related to expected production for the relevant site in the financial year that began 18 months before the year to which the application relates and was referrable to the site mentioned in the application.

- (4) In subregulation (3), the factor $ST^{ia}_{tfincurr}$ is 0 in relation to a site:
 - (a) that meets the new entrant criteria specified in subregulation 22ZD (3); or

Regulation 22ZC

- (b) in respect of which no partial exemption certificate was issued in the year preceding the application for the emissions-intensive trade-exposed activity and site to which the application relates.
- (4A) For the activity of petroleum refining, the factor $SP^{ia}_{tfinprev}$ in subregulation (3) is 0 in relation to a site:
 - (a) that meets the new entrant site criteria specified in subregulation 22ZD (3); and
 - (b) for which the combined volume of diesel, jet fuel, unleaded petrol, lubricant base stocks and bitumen, at 15 °C and 1 atmosphere, that is produced from stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible petroleum feedstocks is less than 75% of the total kilolitres of those substances used in the financial year that ended 18 months before the year to which the application relates.
- (4B) For the activity of integrated iron and steel manufacturing, the factor $SP^{ia}_{tfinprev}$ in subregulation (3) is 0 in relation to a site:
 - (a) that meets the new entrant site criteria specified in subregulation 22ZD (3); and
 - (b) for which, in the financial year that ended 18 months before the year to which the application relates, the percentage of cold ferrous feed transformed into 1 or more of the items in subparagraphs 656 (1) (e) (i) to (iii) of Schedule 6, as a portion of molten iron and cold ferrous feed, was greater than 30%.
- (5) For the 2011 year, in the formula for $ST^{ia}_{tfincurr}$ in subregulation (3), factor $SP^{ia}_{tfinprev-1}$ is the amount or volume of relevant product that was set out in the application for 2010.

22ZC Regulator must be satisfied about amount or volume

- (1) For paragraph 22ZB (1) (c), the Regulator must be satisfied that the amount or volume is accurate or the best estimate of the relevant amount or volume possible in all the circumstances.

Regulation 22ZC

- (2) For paragraph 22ZB (2) (b), the Regulator must be satisfied that the amount or volume:
 - (a) is accurate or the best estimate of the relevant amount or volume possible in all the circumstances; and
 - (b) correctly calculated under subregulation 22ZB (3).
- (3) Under subregulations (1) and (2), the Regulator must be so satisfied in relation to:
 - (a) the year to which the application relates; and
 - (b) the liable entity that is the subject of the application; and
 - (c) the period during which the emissions-intensive trade-exposed activity is carried on; and
 - (d) the site that is mentioned in the application.
- (4) The Regulator must, when deciding under subregulation (1) or (2), have regard to the following:
 - (a) if the amount or volume relates to an amount or volume that was previously provided to the Department of Climate Change and Energy Efficiency in the development of the emissions-intensive trade-exposed assistance program — the amount or volume that was so provided and any audit report that accompanied that information;
 - (b) if the emissions-intensive trade-exposed assistance program has commenced — the considerations that must be applied under that program in relation to an application for free Australian emissions units in respect of an equivalent amount or volume of relevant product;
 - (c) if the emissions-intensive trade-exposed assistance program has not commenced — the following matters in relation to the measurement of an amount or volume of relevant product:
 - (i) any relevant requirements imposed by or under the *National Measurement Act 1960*;
 - (ii) the way in which the amount or volume of relevant product is measured by the industry;
 - (iii) accredited industry test methods for measuring the amount or volume of relevant product;

- (iv) whether the measurement of the amount or volume of the relevant product is frequent enough to produce data that is representative and unbiased;
 - (v) the risk of the relevant product not satisfying the qualities required by Schedule 6;
 - (vi) the administrative costs in implementing more accurate testing methods for measuring the amount or volume of relevant product at the site;
- (d) any other relevant matter.

22ZD Factor — $EASP^{ia}_{tfincurr}$

New or expected additional production

- (1) For the factor $EASP^{ia}_{tfincurr}$ in subregulation 22ZB (3), ***new or expected additional production*** is, if the site meets the criteria for a new entrant, the amount or volume of relevant product that is reasonably likely to be produced in the financial year that began six months before the year to which the application relates and that is referable to that site.
- (2) For the factor $EASP^{ia}_{tfincurr}$ in subregulation 22ZB (3), ***new or expected additional production*** is, if the site meets the criteria for a significant expansion, the amount or volume of the relevant product that:
 - (a) is reasonably likely to be produced in the financial year that began six months before the year to which the application relates; and
 - (b) exceeds the amount of the production of the relevant product produced in the previous financial year; and
 - (c) is referable to that site.

Criteria for new entrant site

- (3) For subparagraph (b) (i) of the factor $EASP^{ia}_{tfincurr}$ in subregulation 22ZB (3), the specified criteria are:
 - (a) the emissions-intensive trade-exposed activity mentioned in the application in relation to the site has not been carried on at that site in the financial year that began

Regulation 22ZD

18 months before the year to which the application relates;
or

- (b) all of the following:
 - (i) the emissions-intensive trade-exposed activity mentioned in the application in relation to the site was carried on for the first time at that site in the financial year that began 18 months before the year to which the application relates;
 - (ii) no application for a partial exemption certificate was made in relation to the carrying on of that activity at that site for the previous year; or
- (c) all of the following:
 - (i) the emissions-intensive trade-exposed activity mentioned in the application in relation to the site commenced to be carried on again at the site in the financial year that began 18 months before the year to which the application relates after a period of more than 12 months during which the activity was not carried on at the site;
 - (ii) no application for a partial exemption certificate was made in relation to the carrying on of that activity at that site for the previous year.

Criteria for significant expansion site

- (4) For subparagraph (b) (ii) of the factor $EASP_{tfincurr}^{ia}$ in subregulation 22ZB (3), the specified criteria are:
 - (a) an emissions-intensive trade-exposed activity was carried on at the site in the year preceding the year to which the application relates; and
 - (b) equipment has been installed, or is to be installed, at the site to carry on the activity; and
 - (c) the equipment has not previously been taken into account under these Regulations in relation to the significant expansion of a site; and
 - (d) for equipment that has been installed — the equipment was first fully installed at the site not more than 4 and a half years before the start of the year to which the application relates; and

- (e) for equipment that is to be installed — the equipment is expected to be installed, or substantially installed, within 6 months after the end of the year to which the application relates; and
 - (f) after the equipment is commissioned, and any existing equipment that is to be decommissioned has been decommissioned, the maximum productive capacity of the equipment used to produce the relevant product will be more than 20% greater than the maximum productive capacity of the equipment that existed before the installation.
- (5) In paragraph (4) (f), a reference to the equipment that existed before the installation does not include decommissioned equipment that exists at the site and that:
- (a) has not been used since the equipment was installed; and
 - (b) is not proposed to be used for at least 12 months after the application year.
- (6) In subregulation (4), ***equipment*** means equipment that is used, or is to be used, to carry on an emission-intensive trade-exposed activity, including the following:
- (a) an apparatus;
 - (b) an appliance;
 - (c) a boiler;
 - (d) a chimney;
 - (e) a crane;
 - (f) a device;
 - (g) a dredge;
 - (h) a dryer;
 - (i) an electrolytic cell;
 - (j) an engine;
 - (k) a furnace;
 - (l) a generator;
 - (m) an incinerator;
 - (n) an instrument;

Regulation 22ZE

- (o) a kiln;
- (p) a machine;
- (q) an oven;
- (r) plant;
- (s) a retort;
- (t) a structure;
- (u) a tool.

Subdivision D Matters relating to factor G

22ZE Factor — G

- (1) For subregulation 22ZA (1), **G** is worked out using the following formula:

$$\frac{EC_{tfinprev}^{ia} - EG_{tfinprev}^{ia}}{EC_{tfinprev}^{ia}}$$

where:

$EC_{tfinprev}^{ia}$ is the amount of electricity (measured in MWh) consumed at the site at which the activity occurs in the financial year that ended 6 months before the year to which the application relates.

$EG_{tfinprev}^{ia}$ is, for the financial year that ended 6 months before the year to which the application relates, the sum of the following amounts of electricity (measured in MWh):

- (a) the amount of electricity generated and consumed, at the site for which there is no relevant acquisition; and
 - (b) the amount of electricity delivered to the site for which no relevant acquisition occurs between the point of generation and the point of use.
- (2) For the purposes of working out **G** using the formula in subregulation (1), electricity generation from an electricity generator with a nameplate rating of less than 1 MW may be disregarded.

**Subdivision E Method for calculation if liable entity
changes and new certificate is issued**

**22ZF Prescribed method if liable entity changes and new
certificate is issued — paragraph 46B (1) (a) of the
Act**

- (1) If:
- (a) a prescribed person is issued a partial exemption certificate in relation to the liable entity (the *old liable entity*) set out in the application made by that person under subsection 46A (1) of the Act; and
 - (b) during the same year, the prescribed person applies for another partial exemption certificate in relation to another liable entity (the *second liable entity*) as a prescribed person mentioned in regulation 22L;

the amount of the second liable entity's partial exemption is calculated in accordance with the following formula:

$$\frac{OL \times D}{\text{year's days}}$$

where:

OL is the amount of the partial exemption, expressed in megawatt hours, set out in the partial exemption certificate issued in relation to the old liable entity.

D is the number of days in the year for which the second liable entity will be the liable entity in relation to the partial exemption.

year's days is the number of days in the year to which the partial exemption certificates relate.

- (2) If:
- (a) the Regulator issues a partial exemption certificate mentioned in paragraph (1) (b); and

Regulation 22ZG

- (b) during the same year, the prescribed person applies for another partial exemption certificate in relation to another liable entity (the *third liable entity*) as a prescribed person mentioned in regulation 22L;

the amount of the third liable entity's partial exemption is calculated in accordance with the following formula:

$$\frac{OL \times D}{OLD}$$

where:

OL is the amount of the partial exemption, expressed in megawatt hours, set out in the partial exemption certificate issued in relation to the second liable entity.

D is the number of days in the year for which the third liable entity will be the liable entity in relation to the partial exemption.

OLD is the number of days used as *D* in subregulation (1).

22ZG Prescribed method if there is a second liable entity and new certificate is issued — paragraph 46B (1) (a) of the Act

If:

- (a) a prescribed person is issued a partial exemption certificate in relation to the liable entity (the *first liable entity*) set out in the application made by that person under subsection 46A (1) of the Act; and
- (b) during the same year, the prescribed person applies for another partial exemption certificate in relation to another liable entity (the *second liable entity*) as a prescribed person mentioned in regulation 22M;

the amount of the second liable entity's partial exemption is calculated in accordance with the following formula:

$$OL \times SL \div (SL + FL)$$

where:

OL is the amount of the partial exemption, expressed in megawatt hours, set out in the partial exemption certificate issued in relation to the first liable entity.

SL is the reasonable estimate of the expected relevant acquisitions of electricity consumed at the site by the second liable entity in the year to which the partial exemption relates.

FL is the reasonable estimate of the expected relevant acquisitions of electricity consumed at the site by the first liable entity in the year to which the partial exemption certificate relates.

**Subdivision F Regulator to estimate and publish
volume weighted average market price
for REC**

**22ZH Regulator must estimate and publish weighted
average market price for REC**

- (1) The Regulator must, each year (the *estimate year*), estimate the volume weighted average market price:
 - (a) for the 2010 estimate year — for a REC for the following year; and
 - (b) for each subsequent estimate year — for an LGC for the following year.
- (2) The Regulator must publish details of the estimate on the Regulator's website by 31 October of the estimate year.
- (3) The Regulator must also publish on the Regulator's website a brief description of the following:
 - (a) the methods used by the Regulator to:
 - (i) arrive at the estimate; and
 - (ii) weigh the prices and volumes for RECs or LGCs, as appropriate;
 - (b) details of the sources of information available to the Regulator to arrive at the estimate.
- (4) The information in subregulation (3) must be published:
 - (a) by 31 October of the first estimate year; and

Division 7 Prescribed period for issuing partial exemption certificates

22ZK Prescribed period

This Division is made for subsection 46B (2) of the Act.

22ZL Prescribed period for issuing partial exemption certificate for 2010 and subsequent years

- (1) If:
- (a) a prescribed person has applied under subsection 46A (1) of the Act in relation to 2010 or a subsequent year; and
 - (b) the Regulator did not seek further information in respect of the application;
- then the Regulator must issue the partial exemption certificate:
- (c) for 2010 — within the period of 60 days after receiving the application; or
 - (d) for 2011 or a subsequent year — within:
 - (i) 7 days after the small-scale technology percentage for the year has been prescribed; or
 - (ii) the period of 60 days after receiving the application;whichever occurs later.
- (2) If:
- (a) a prescribed person has applied under subsection 46A (1) of the Act in relation to 2010 or a subsequent year; and
 - (b) the Regulator did seek further information in respect of the application;
- then the Regulator must issue the partial exemption certificate:
- (c) for 2010 — within the period of 60 days after receiving the further information; or
 - (d) for 2011 or a subsequent year — within:
 - (i) 7 days after the small-scale technology percentage for the year has been prescribed; or
 - (ii) the period of 45 days after receiving the further information;whichever occurs later.

Division 8 Amending partial exemption certificates

Subdivision A Amendment of partial exemption certificates on application — paragraph 46C (2) (a) of the Act

22ZN Amendment upon request

- (1) This regulation prescribes matters for paragraph 46C (2) (a) of the Act.
- (2) The matters that the Regulator must have regard to are the following:
 - (a) whether the information in the partial exemption certificate is inaccurate;
 - (b) whether the Regulator miscalculated the amount of the partial exemption given the amount of the relevant product that the Regulator had identified in applying the method prescribed in the regulations to the application under subsection 46A (1) of the Act;
 - (c) whether the liable entity set out in the partial exemption certificate has consented in writing to the amendment;
 - (d) whether the request for an amendment is based upon issues that were considered in the granting of the partial exemption certificate;
 - (e) whether the request for an amendment is made before the end of the year to which the partial exemption certificate relates.

Subdivision B Amendment of partial exemption certificate on Regulator's own initiative — subsection 46C (3) of the Act

22ZO Amendment of partial exemption certificate — subsection 46A (3) of the Act

Regulations 22ZP, 22ZQ, 22ZR and 22ZS each prescribe a circumstance for subsection 46C (3) of the Act.

22ZP Circumstance — if change of liable entity

- (1) If:
- (a) a partial exemption certificate (the *first certificate*) is issued in relation to a liable entity (the *first liable entity*) and a year following an application by a prescribed person; and
 - (b) the prescribed person becomes a prescribed person under regulation 22L; and
 - (c) the prescribed person makes an application under subsection 46A (1) of the Act in relation to another liable entity (the *second liable entity*) and the year; and
 - (d) in issuing another certificate (the *second certificate*), the Regulator is satisfied that the evidence referred to in paragraphs 22S (1) (b) and (c) evidences the matters stated in those paragraphs;
- then the Regulator may amend the first certificate.
- (2) The amendment must reduce the amount of the first liable entity's partial exemption set out in the certificate that is attributable to the activity by the number calculated in accordance with the following formula:

$$\frac{OL \times D}{\text{year's days}}$$

where:

OL is the amount of the partial exemption set out in the first partial exemption certificate expressed as megawatt hours.

D is the number of days in the year for which the second liable entity will be the liable entity.

year's days is the number of days in the year to which the partial exemption certificates relate.

- (3) If:
- (a) the Regulator amends the first certificate under subregulation (1) and issues another certificate as mentioned in paragraph (1) (d) (the *second certificate*) in relation to the second liable entity; and

Regulation 22ZQ

- (b) the prescribed person again becomes a prescribed person under regulation 22L; and
- (c) the prescribed person makes an application under subsection 46A (1) of the Act in relation to another liable entity (the *third liable entity*) and the year; and
- (d) in issuing another certificate (the *third certificate*) in respect of the third liable entity, the Regulator is satisfied that the evidence referred to in paragraphs 22S (2) (b) and (c) evidences the matters stated in those paragraphs;

then the Regulator may again, on 1 occasion only, amend the second certificate.

- (4) The amendment must reduce the amount of the second liable entity's partial exemption set out in the certificate that is attributable to the activity by the number calculated in accordance with the following formula:

$$\frac{OL \times D}{OLD}$$

where:

OL is the amount of the partial exemption set out in the first partial exemption certificate expressed as megawatt hours.

D is the number of days in the year for which the third liable entity will be the liable entity in relation to the partial exemption.

OLD is the number of days used as *D* in subregulation (2).

22ZQ Circumstances — if there is a second liable entity

- (1) If:
 - (a) a partial exemption certificate (the *first certificate*) is issued in relation to a liable entity (the *first liable entity*) and a year following an application by a prescribed person; and
 - (b) the prescribed person becomes a prescribed person under regulation 22M; and

- (c) the prescribed person makes an application under subsection 46A (1) of the Act in relation to another liable entity (the *second liable entity*) and the year; and
- (d) in issuing another certificate (the *second certificate*), the Regulator is satisfied that the second liable entity is the liable entity in respect of the electricity consumed at the site at the beginning of the year;

then the Regulator may amend the first certificate.

- (2) The amendment must reduce the amount of the first liable entity's partial exemption set out in the certificate that is attributable to the activity by the number calculated in accordance with the following formula:

$$OL \times SL \div (SL + FL)$$

where:

OL is the amount of the partial exemption, expressed as megawatt hours, set out in the first certificate in relation to the first liable entity.

SL is the reasonable estimate of the expected relevant acquisitions of electricity consumed at the site by the second liable entity in the year to which the partial exemption relates.

FL is the reasonable estimate of the expected relevant acquisitions of electricity consumed at the site by the first liable entity in the year to which the partial exemption certificate relates.

22ZR Circumstance — if activity ceases at site

- (1) If:
 - (a) a partial exemption certificate has been issued in respect of an emissions-intensive trade-exposed activity, a site and a year; and
 - (b) during the year, the Regulator becomes satisfied that:
 - (i) the activity has not been conducted at the site for a period of at least 3 months; and

Regulation 22ZS

- (ii) it is unlikely that the activity will be conducted again at the site for at least 9 months from the end of the period mentioned in subparagraph (i); and

then, subject to subregulation (3), the Regulator may amend the certificate.

- (2) The amendment must reduce the amount of the partial exemption set out in the certificate that is attributable to the activity by the number calculated in accordance with the following formula:

$$\frac{OL \times D}{\text{year's days}}$$

where:

OL is the amount of the partial exemption set out in the partial exemption certificate expressed as megawatt hours.

D is the number of days in the year that the activity was not, or is not likely to be, conducted.

year's days is the number of days in the year to which the partial exemption certificate relates.

- (3) The Regulator must not amend the certificate if the certificate has previously been amended under regulation 22ZP because the liable entity set out in the certificate ceased to be a liable entity for the site:
- (a) in the circumstances mentioned in paragraph 22L (1) (b) or paragraph 22L (2) (a); and
- (b) before the last time during the year when the emissions-intensive trade-exposed activity was conducted at the site.

22ZS Circumstance — if partial exemption certificate is inaccurate

- (1) If:
- (a) the Regulator becomes aware that a partial exemption certificate is inaccurate; and

Regulation 22ZT

- (b) the Regulator becomes aware during the year to which the certificate relates;
then, subject to subregulation (2), the Regulator may amend the certificate to correct the inaccuracy.
- (2) The Regulator must not amend the partial exemption certificate unless the Regulator has, in writing, advised the following persons about the inaccuracy and the proposed correction:
 - (a) the prescribed person to whom the certificate has been issued;
 - (b) the liable entity in respect of which the certificate has been issued.

Division 8A Information for partial exemption certificates

22ZSA Requirement to give information

For paragraph 46D (1) (a) of the Act, the information is information about all of the following:

- (a) the emissions of greenhouse gases for the activity;
- (b) the electricity used by the activity;
- (c) the revenue generated by the activity.

Division 9 Record keeping

22ZT Records to be kept by persons issued with a partial exemption certificate

For paragraph 160 (3A) (b) of the Act, if in relation to a partial exemption certificate, the percentage calculated in accordance with subregulation 22ZE (1) is less than 100%, the following matters are prescribed:

- (a) the amount of the electricity consumed at the site during the financial year that started 6 months before the year to which the partial exemption relates;

Regulation 22ZT

- (b) the amount of electricity generated and consumed, at the site for which there is no relevant acquisition of electricity during that financial year;
- (c) the amount of electricity delivered to the site for which no relevant acquisition occurs between the point of generation and the point of use.

Part 4 Renewable energy shortfall charge

23A Prescribed percentage

For subsection 38AF (7) of the Act, the prescribed percentage is 10%.

23B Energy acquisition statement lodged — requirements for Regulator exercising powers or functions

- (1) This regulation is made for subsection 38AF (9) of the Act and sets out the requirements the Regulator must comply with when exercising his or her functions or powers under section 38AF of the Act.
- (2) If the Regulator is satisfied that the proposed amount specified in the liable entity's application is the best estimate of the liable entity's reduced acquisitions for the assessment year, the Regulator must determine that amount under paragraph 38AF (3) (a) of the Act.
- (3) If the Regulator is not satisfied as mentioned in subregulation (2), the Regulator must, subject to subsection 38AF (5) of the Act, determine an amount that is the Regulator's best estimate of the liable entity's reduced acquisitions for the assessment year.

23C No energy acquisition statement lodged — requirements for Regulator exercising powers or functions

- (1) This regulation is made for subsection 38AG (8) of the Act and sets out the requirements the Regulator must comply with when exercising his or her functions or powers under section 38AG of the Act.

Regulation 23D

- (2) If the Regulator is satisfied that the proposed amount for a quarter specified in the liable entity's application is the best estimate of 4 times the liable entity's reduced acquisitions for the relevant quarter, the Regulator must determine that amount for the relevant quarter under paragraph 38AG (3) (a) of the Act.
- (3) If the Regulator is not satisfied as mentioned in subregulation (2), the Regulator must, subject to subsection 38AG (5) of the Act, determine an amount that is the Regulator's best estimate of 4 times the liable entity's reduced acquisitions for the relevant quarter.
- (4) In making a decision under subregulation (2) or (3), the Regulator must deduct, on a pro-rata basis, the estimated total amount of partial exemptions for the assessment year from each quarter's relevant acquisitions.

23D Applications under section 38AF of Act

- (1) This regulation is made for section 38AI of the Act and sets out the information that must be included in an application under section 38AF of the Act by a liable entity.
- (2) The application must:
 - (a) set out the liable entity's reasons for choosing the proposed amount; and
 - (b) include a written statement from a person with responsibility for the liable entity's compliance with the Act that the proposed amount is the person's best estimate of the amount of the liable entity's reduced acquisitions for the year at the time of the application; and
 - (c) set out an estimate of the amount of relevant acquisitions made by the liable entity in the year before the day of the application; and
 - (d) set out any factors of which the liable entity is aware that could result in the amount of the liable entity's reduced acquisitions being more, or less, than the proposed amount; and

Regulation 23E

- (e) if the application is made before 1 April in the assessment year — set out the estimated amount of the liable entity's previous year's reduced acquisitions that would apply if the Regulator did not make a determination under section 38AF of the Act; and
- (f) if the application is made after 1 April in the assessment year — set out the amount of the liable entity's previous year's reduced acquisitions that would apply if the Regulator did not make a determination under section 38AF of the Act.

23E Applications under section 38AG of Act

- (1) This regulation is made for section 38AI of the Act and sets out the information that must be included in an application under section 38AG of the Act by a liable entity.
- (2) The application must:
 - (a) set out the liable entity's reasons for choosing the proposed amount; and
 - (b) include a written statement from a person with responsibility for the liable entity's compliance with the Act that, subject to subregulation (3), the proposed amount is the person's best estimate of 4 times the amount of the liable entity's reduced acquisitions for a relevant quarter at the time of the application; and
 - (c) set out an estimate of the amount of the relevant acquisitions made by the entity in the year before the day of the application; and
 - (d) specify whether there is any quarter in which the liable entity has not, or is not likely to, make any relevant acquisitions; and
 - (e) set out any factors of which the liable entity is aware that could result in the amount of the liable entity's reduced acquisitions being more, or less, than the proposed amount for a quarter.
- (3) For paragraph (2) (b), the person is to assume that the total amount of partial exemptions are allocated on a pro-rata basis for the estimated amount of relevant acquisitions for the year.

Regulation 23

Division 1 Large-scale generation shortfall charge

23 Renewable power percentage

For subsection 39 (1) of the Act, the renewable power percentage is:

- (a) for 2001 — 0.24%; and
- (b) for 2002 — 0.62%; and
- (c) for 2003 — 0.88%; and
- (d) for 2004 — 1.25%; and
- (e) for 2005 — 1.64%; and
- (f) for 2006 — 2.17%; and
- (g) for 2007 — 2.70%; and
- (h) for 2008 — 3.14%; and
- (i) for 2009 — 3.64%; and
- (j) for 2010 — 5.98%; and
- (k) for 2011 — 5.62%.

Division 2 Small-scale generation shortfall charge

23A Small-scale technology percentage

For subsection 40A (1) of the Act, the small-scale technology percentage for 2011 is 14.80%.

Part 5 Statements and assessments

24 Annual energy acquisition statements

- (1) For paragraph 44 (2) (f) of the Act, an energy acquisition statement must set out the following information:
- (a) the year to which the statement applies;
 - (b) the date of the statement;
 - (c) whether the liable entity must lodge a renewable energy shortfall statement for the year;
 - (d) how any small-scale technology shortfalls and large-scale generation shortfalls were calculated;
 - (e) the telephone number, fax number and email address (if any) of the liable entity;
 - (f) any large-scale generation shortfall charge refund owing under section 98 of the Act;
 - (g) any changes to information already given to the Regulator about the following matters for the liable entity:
 - (i) ownership;
 - (ii) company mergers;
 - (iii) street address, telephone number, fax number and email address (if any);
 - (iv) electricity supply arrangements;
 - (h) the year for which the renewable energy certificates are being surrendered;
 - (i) any adjustments to the information set out in an energy acquisition statement lodged in a previous year (for example, changes to the statement resulting from changes to the final settlement data issued by AEMO or IMO).
- Note* For other information that must also be included in the statement, see subsection 44 (2) of the Act.
- (2) For paragraph 44 (6) (b) of the Act, an energy acquisition statement must be sent by post or fax to the Office of the Renewable Energy Regulator.

Regulation 24A

24A Surrender of small-scale technology certificates

For subparagraph 45 (1) (a) (ii) of the Act, the notice must be lodged electronically in the register of small-scale technology certificates.

24B Surrender of additional certificates

For paragraph 45C (2) (c) of the Act, the additional surrender notice must be lodged electronically in the register of large-scale generation certificates or the register of small-scale technology certificates, as the case requires.

25 Annual large-scale generation shortfall statements

- (1) For paragraph 46 (3) (e) of the Act, an annual large-scale generation shortfall statement must set out the following information:
 - (a) the year to which the statement applies;
 - (b) the telephone number, fax number and email address (if any) of the liable entity;
 - (c) how any large-scale generation shortfall charge was worked out;
 - (d) any adjustments to the information set out in a large-scale generation shortfall statement lodged in a previous year (for example, changes to the statement resulting from changes to the final settlement data issued by AEMO or IMO).
- Note* For other information that must also be included in the statement, see subsection 46 (3) of the Act.
- (2) For paragraph 46 (6) (b) of the Act, a large-scale generation shortfall statement must be sent by post or fax to the Office of the Renewable Energy Regulator.
- (3) If the large-scale generation shortfall statement is sent by fax, the original statement must also be sent by post to the Office of the Renewable Energy Regulator.

Regulation 25A

25A Annual small-scale technology shortfall statements

- (1) For paragraph 46 (5) (d) of the Act, an annual small-scale technology shortfall statement must set out the following information:
 - (a) the year to which the statement applies;
 - (b) the telephone number, fax number and email address (if any) of the liable entity;
 - (c) how the small-scale technology shortfall charge was worked out;
 - (d) any adjustments to the information set out in a small-scale technology shortfall statement lodged in a previous year (for example, changes to the statement resulting from changes to the final settlement data issued by AEMO or IMO).

Note For other information that must also be included in the statement, see subsection 46 (5) of the Act.

- (2) For paragraph 46 (6) (b) of the Act, a small-scale technology shortfall statement must be sent by post or fax to the Office of the Renewable Energy Regulator.
- (3) If the small-scale technology shortfall statement is sent by fax, the original statement must also be sent by post to the Office of the Renewable Energy Regulator.

Regulation 26

Part 6 Administration**26 Seizing and disposing of property**

- (1) For subsection 94 (2) of the Act, this regulation sets how an authorised person may seize and dispose of the property of a deceased person.
- (2) After property is seized, the authorised person must keep it secure until the authorised person disposes of it.
- (3) On a sale of land under this regulation, the authorised person must comply with the law of the State or Territory where the land is situated for the transfer of title to land.
- (4) The authorised person may sell as much of the property that is seized as will, in the opinion of the authorised person, be sufficient to raise the amount mentioned in subsection 94 (1) of the Act.
- (5) A sale of seized property must take place as soon as possible after the property is seized.
- (6) After the authorised person sells seized property, he or she:
 - (a) may keep the reasonable costs incurred by him or her; and
 - (b) must give any remaining amount to the Regulator.
- (7) The authorised person must tell the Regulator if the sale of all available property of the deceased person raises less than the amount mentioned in subsection 94 (1) of the Act.

27 Identity cards for authorised officers

For subsection 108 (1) of the Act, an identity card must include:

- (a) the signature of the authorised officer; and
- (b) the name and office of the authorised officer; and
- (c) the date the card expires; and

Regulation 28

- (d) any other information that may be necessary to indicate that the officer is authorised to exercise powers or to perform functions under the Act.

28 Fees

- (1) For paragraph 10 (2) (d) of the Act:
- (a) the fee for an application for registration is \$20; and
 - (b) the fee for an application for registration as a person to whom certificates may be assigned under subsection 23 (2) or 23C (2) of the Act is \$250.
- (2) For paragraphs 12A (2) (f) and 13 (2) (e) of the Act, the fee for an application for provisional accreditation or accreditation is:

Item	Generator	1997 eligible renewable power baseline type	Fee
1	< 10 kW, small generation unit or solar water heater for which the right to create certificates is not assigned under subsection 23 (2) or 23C (2) of the Act	Any baseline	\$20
2	< 10MW, other than small generation unit or solar water heater to which item 1 applies	(a) default or nil baseline (b) special baseline with data (c) special baseline without required data (modelling required)	\$50 \$150 \$250
3	≥ 10 MW, ≤ 25 MW	(a) default or nil baseline (b) special baseline with data (c) special baseline without required data (modelling required)	\$200 \$500 \$1 000
4	> 25 MW	(a) default or nil baseline (b) special baseline with data (c) special baseline without required data (modelling required)	\$1 000 \$1 700 \$3 000

Regulation 28

- (3) For subsection 26 (3A) of the Act, the fee for registration of a certificate is:
- (a) for a small-scale technology certificate created on or after 17 October 2011 for a small generation unit:
 - (i) for the first 250 certificates registered — nil;
 - (ii) for the 251st certificate registered — \$117.97;
 - (iii) for each certificate registered after the 251st certificate — 47 cents; and
 - (b) for any other certificate:
 - (i) for the first 250 certificates registered — nil;
 - (ii) for the 251st certificate registered — \$20.08;
 - (iii) for each certificate registered after the 251st certificate — 8 cents.

Part 7 Inspections of small generation units

Division 1 General

29 Purpose of Part

- (1) The purpose of this Part is to establish a scheme for the inspection of small generation units for which renewable energy certificates have been created.
- (2) This Part is made for section 23AAA of the Act.

30 General requirements for inspections

- (1) The Regulator must ensure that each year a statistically significant selection of small generation units that were installed during the year are inspected under this Part for conformance with:
 - (a) Australian standards; and
 - (b) other standards or requirements relevant to the creation of certificates in relation to the installed small generation unit.
- (2) The Regulator must ensure that an inspection under this Part is carried out by a person or organisation who:
 - (a) is independent of the person or organisation who designed and/or installed the small generation unit; and
 - (b) does not have a conflict of interest in relation to the small generation unit or administration of the matters being inspected.

Regulation 31

31 Part 7 not to limit other inspections

Nothing in regulation 30 prevents small generation units for which certificates have been created from:

- (a) being inspected under this Part at any time that the Regulator considers it is appropriate or necessary to do so; or
- (b) being inspected as part of an audit under Part 11 of the Act.

32 Publication of inspections

- (1) The Regulator must, for each year, publish on the Regulator's website the number of inspections conducted under this Part during the year.
- (2) The Regulator may also publish any other general information about inspections that the Regulator considers appropriate.

Division 2 Appointment of inspectors

33 Appointment of inspectors

- (1) The Regulator may, in writing, appoint a person to be an inspector for this Part.
- (2) The Regulator is not to appoint a person as an inspector unless the Regulator is satisfied that the person:
 - (a) is of sufficient maturity, and has had sufficient training, to properly exercise the powers of an inspector; and
 - (b) holds an unrestricted licence for electrical work under the laws of a State or Territory; and
 - (c) has sufficient expertise in matters arising under the Act and these Regulations in relation to small generation units in order to critically examine the requirements in regulation 39 and to prepare a report under regulation 42; and
 - (d) is of good repute, having regard to the person's character, honesty and integrity.

- (3) In exercising a power or performing a function as an inspector, an inspector must comply with any directions of the Regulator.

Note Part 12 of the Act and section 70 of the *Crimes Act 1914* apply to inspectors appointed under this regulation.

34 Identity cards

- (1) The Regulator must issue an identity card to an inspector.
- (2) An identity card must include:
- (a) the signature of the inspector; and
 - (b) the name of the inspector; and
 - (c) the date the card expires; and
 - (d) any other information that may be necessary to indicate that the inspector is authorised to exercise powers or to perform functions under this Part.
- (3) An inspector must carry the identity card at all times when exercising powers or performing functions as an inspector.

35 Offence for not returning identity card

A person commits an offence if:

- (a) the person has been issued with an identity card; and
- (b) the person ceases to be an inspector; and
- (c) the person does not, immediately upon so ceasing, return the identity card to the Regulator.

Penalty: 1 penalty unit.

36 Inspector must not have conflict of interest

A person commits an offence if:

- (a) the person is an inspector; and
- (b) the person conducts an inspection of a small generation unit under this Part; and
- (c) at the time of the inspection, the person:
 - (i) is not independent of the person or organisation who designed and/or installed the small generation unit;or

Regulation 37

- (ii) has a conflict of interest in relation to the small generation unit or administration of the matters being inspected.

Penalty: 5 penalty units.

Division 3 Powers of inspectors

37 Entry to premises

- (1) For the purpose of conducting an inspection under this Part, an inspector may:
 - (a) at any reasonable time of the day, enter any premises on which a small generation unit has been installed; and
 - (b) conduct an inspection of the unit and premises in order to determine if the requirements in regulation 39 have been satisfied.
- (2) An inspector is not authorised to enter premises under subregulation (1) unless:
 - (a) the inspector has, at least 24 hours before the proposed inspection, contacted the occupier of the premises and arranged a time for the inspection; and
 - (b) the occupier has consented to the entry at that time; and
 - (c) the inspector has shown his or her identity card to the occupier or a person who represents the occupier; and
 - (d) before undertaking the inspection, the inspector has explained the purpose and scope of the inspection to the occupier or a person who represents the occupier.

38 Consent

- (1) Before obtaining the consent of an occupier for paragraph 37 (2) (b), the inspector must inform the occupier that he or she may refuse consent.
- (2) An entry of an inspector by virtue of the consent of the occupier is not lawful unless the occupier voluntarily consented to the entry.

39 Matters for inspection

In conducting an inspection under this Part, the inspector is to determine whether there is material or pervasive evidence that the following requirements in relation to the small generation unit being inspected have not been satisfied:

- (a) the unit is installed at the address specified in the application to create certificates and is able to produce and deliver electricity;
- (b) the unit is a small generation unit within the meaning of subregulation 3 (2);
- (c) all State or Territory, and local, government requirements have been satisfied for:
 - (i) the siting of the unit; and
 - (ii) if the unit is attached to a building or structure — attachment of the unit to the building or structure; and
 - (iii) if the unit is grid-connected — the grid connection of the unit;
- (d) the installation of the unit complies with the following standards, as in force at the time the unit was installed:
 - (i) AS/NZS 3000, *Electrical installations*;
 - (ii) AS/NZS 1768, *Lightning protection*;
 - (iii) if the unit is an on-grid system — AS 4777, *Grid connection of energy systems via inverters*;
 - (iv) if the unit is solar (photovoltaic) system — AS/NZS 5033, *Installation of photovoltaic (PV) arrays* and AS/NZS 1170.2, *Structural design actions*, Part 2: *Wind actions*;
 - (v) if the unit is an off-grid solar (photovoltaic) system or a wind system — AS/NZS 4509.1, *Stand alone power systems*, Part 1: *Safety and installation* and AS 4086.2, *Secondary batteries for use with stand-alone power systems*, Part 2: *Installation and maintenance*;
 - (vi) if the unit is a wind system — AS/NZS 1170.2, *Structural design actions*, Part 2: *Wind actions*;
- (e) the statements and documentation mentioned in subregulation 20AC (5) for the unit have been obtained;

Regulation 40

- (f) if the unit is a solar (photovoltaic) system — the person entitled to create the certificates for the unit obtained:
 - (i) a written statement by the installer of the unit that the installer has at the time of the installation used a model of a photovoltaic module listed in AS/NZS 5033, *Compliant PV Modules*, as in force from time to time; and
 - (ii) if the system uses an inverter — a written statement by the installer of the unit that the installer has at the time of the installation used a model of grid-connect inverter listed in *Tested and Approved Grid Connected Inverters*, as in force from time to time;
- (g) if the certificates created for the unit were multiplied under regulation 20AA — the circumstances in subregulation 20AA (3) apply to the multiplication of the certificates;
- (h) if subregulation 20 (2C) or (2E) applies to the unit — the unit is an off-grid small generation unit.

Note for subparagraphs (f) (i) and (ii) These documents are available at www.cleanenergycouncil.org.au.

40 Conduct of inspection

- (1) In conducting an inspection of a small generation unit under this Part, an inspector:
 - (a) may examine and test the unit and any wiring or equipment associated with the unit; and
 - (b) may take photographs of anything on the premises relevant to the inspection; and
 - (c) may make a video recording of the inspection; and
 - (d) may request the occupier to answer any questions related to:
 - (i) the design or installation of a small generation unit at the premises; and
 - (ii) the creation of certificates for the unit; and
 - (e) may do anything incidental to the matters mentioned in paragraphs (a) to (d); and

Regulation 41

- (f) must comply with:
 - (i) any requirements or conditions of the inspector's electrical licence; or
 - (ii) the law of the State or Territory where the unit is located.
- (2) A person is not required to answer any questions asked by an inspector under paragraph (1) (e).
- (3) The inspector must leave the premises if the occupier asks the inspector to do so.
- (4) The occupier, or a person who represents the occupier, is entitled to observe the inspection being carried out.

41 Dealing with imminent safety risks

- (1) If, during an inspection, the inspector considers that there is an imminent safety risk to a person or to property from a small generation unit on the premises, the inspector must immediately notify all interested parties of the extent and nature of the safety risk.
- (2) In determining if there is an imminent safety risk to a person or property, the inspector must take into account any guidelines issued by the Regulator.
- (3) The inspector must, after notifying the Regulator, comply with any directions given to the inspector by the Regulator.
- (4) The inspector must notify the relevant State or Territory Regulator by telephone and must, as soon as practicable after the telephone notification, confirm the notification by email or other electronic communication.
- (5) In this regulation:
 - Building Code of Australia*** means the publication known as the Building Code of Australia, published by the Australian Building Codes Board, as in force from time to time.
 - interested parties*** means the following:
 - (a) the occupier;
 - (b) the Regulator;

Regulation 42

- (c) the relevant State or Territory Regulator;
- (d) the relevant distribution network service provider.

relevant distribution network service provider, for a State or Territory, means a person who engages in the activity of owning, controlling or operating an electricity distribution system in the State or Territory.

relevant State or Territory Regulator, for a State or Territory, means:

- (a) for matters relating to electrical work — the State or Territory agency responsible for the administration or enforcement of safety standards for electrical work in the State or Territory; and
- (b) for matters relating to the design and construction of buildings and structures — the State or Territory agency responsible for the administration or enforcement of the Building Code of Australia in its application to the State or Territory.

Division 4 Reports

42 Inspector to prepare a report

- (1) Upon completion of an inspection, the inspector must prepare a written report that complies with this regulation.
- (2) The report must be in the form approved by the Regulator.
- (3) The report must include one of the following conclusions about the design and installation of the small generation unit inspected by the inspector:
 - (a) a conclusion that the inspection found no material or pervasive evidence that one or more of the requirements in regulation 39 were not satisfied;
 - (b) a conclusion that the inspection found material or pervasive evidence that one or more of the requirements in regulation 39 were not satisfied and the non-compliance presents an imminent risk to the safe operation of the small generation unit;

Regulation 44

- (c) a conclusion that the inspection found material or pervasive evidence that one or more of the requirements in regulation 39 were not satisfied but the non-compliance does not present an imminent risk to the safe operation of the small generation unit.
- (4) The report must also include:
 - (a) a brief summary of how the inspection was conducted; and
 - (b) a recommendation as to the steps that should be taken to rectify any problems discovered during the inspection and, in particular, how to ensure that any safety or operational problems discovered can be rectified; and
 - (c) any other information required by the Regulator.

43 Procedural fairness

- (1) If the report is likely to contain an adverse finding in relation to a person who designed or installed the small generation unit or who created certificates for the unit, the inspector must provide a copy of the finding to the person before finalising the report.
- (2) The inspector must:
 - (a) allow the person a reasonable opportunity to comment on the proposed adverse finding; and
 - (b) take account of any comments provided by the person when finalising the report.

44 Copy of final report to be provided to interested parties

- (1) The Regulator must provide a copy of the inspector's final report for a small generation unit at particular premises to the following persons:
 - (a) the owner of the unit;
 - (b) the occupier of the premises;
 - (c) the person who created certificates for the unit;
 - (d) the designer of the unit;
 - (e) the installer of the unit.

Regulation 45

- (2) If a person mentioned in a paragraph in subregulation (1) is the same person mentioned in another paragraph of subregulation (1), the Regulator is only required to provide the person with 1 copy of the report.

45 Copy of report to be provided to Clean Energy Council

If the final report contains a conclusion that there is material or pervasive evidence that one or more of the requirements in paragraphs 39 (c) to (f) have not been satisfied in relation to the design and installation of a small generation unit, the Regulator must provide a copy of the report to the Clean Energy Council.

46 Copy of report to be provided to relevant State or Territory Regulators

- (1) If the final report contains a conclusion that there is material or pervasive evidence that one or more of the requirements in paragraphs 39 (c) and (d) have not been satisfied in relation to the design and installation of a small generation unit, the Regulator must provide a copy of the report to the relevant State or Territory Regulator.

- (2) In this regulation:

Building Code of Australia means the publication known as the Building Code of Australia, published by the Australian Building Codes Board, as in force from time to time.

relevant State or Territory Regulator, for a State or Territory, means:

- (a) for matters relating to electrical work — the State or Territory agency responsible for the administration or enforcement of safety standards for electrical work in the State or Territory; and
- (b) for matters relating to the design and construction of buildings and structures — the State or Territory agency responsible for the administration or enforcement of the Building Code of Australia in its application to the State or Territory.

47 Regulator may declare person ineligible to design and install small generation units

- (1) This regulation applies if a person mentioned in paragraph 20AC (2) (a), (b), (c) or (d) is subject to an adverse finding in an inspection report on 3 separate occasions.
- (2) The Regulator may, in writing, declare that the person is not eligible to design and install small generation units for the purposes of subregulation 20AC (2).
- (3) A declaration has effect for the period, not exceeding 12 months, specified in the declaration.
- (4) The Regulator may publish the declaration on the Regulator's website.

48 Matters to consider before making declaration

- (1) In deciding whether or not to make a declaration in relation to a person, the Regulator must consider the following matters:
 - (a) the nature and extent of the adverse finding identified in an inspection report;
 - (b) the circumstances relating to the adverse finding;
 - (c) whether the person has rectified the problems surrounding the adverse finding;
 - (d) the extent to which the person has cooperated with inspectors and the Regulator with respect to the adverse finding;
 - (e) any other matters the Regulator considers relevant.
- (2) Before making a declaration, the Regulator must:
 - (a) allow the person a reasonable opportunity to comment on the proposed declaration; and
 - (b) take account of any comments provided by the person in relation to the proposed declaration.

Regulation 49

Part 8 Review**49 Review of decisions**

- (1) A person mentioned in column 3 of an item in the following table may request the Regulator to reconsider a decision mentioned in column 2 for that item.

Item	Decision	Person
1	Decision under regulation 19BA to determine the number of certificates that may be created for a solar water heater	Manufacturer of the solar water heater
2	Decision under regulation 19BC in relation to a request to make or vary a determination about a solar water heater	Person making the request
3	Decision under subregulation 47 (2) to declare that a person is not eligible to design and install small generation units	Person subject to the declaration

- (2) The request must be:
- (a) in writing; and
 - (b) given to the Regulator not later than 60 days after the decision is made.
- (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) If the Regulator does not given written notice of the Regulator's decision under subregulation (3) to the person within 60 days after the person gives the request to the Minister:
- (a) the Regulator is taken to have made a decision confirming the original decision; and
 - (b) the Regulator's decision is taken to have been made immediately after the end of the 60 days.

Regulation 49

- (5) An application may be made to the Administrative Appeals Tribunal for review of a decision of the Regulator under subregulation (3).

Schedule 1 Guidelines for determining components of electricity generation system that are taken to be part of a power station

(subregulation 4 (2))

1 General

- 1.1 Components of an electricity generation system that may be taken to be part of a power station for the Act include any of the following, whether or not they are owned by the operator of the system, that are integral to the operation of the system and the generation of electricity:
- (a) any component that operates to transform an eligible renewable energy source into electricity;
 - (b) any infrastructure of the system, including buildings, fuel storage areas, fuel handling devices, information technology, instrumentation and controls.
- 1.2 The components of a supplementary power supply for an electricity generation system are taken to be components of the system that may be taken to be part of a power station for the Act.
- Note* To the extent that a supplementary power supply uses energy sources that are not eligible renewable energy sources or that are generated during any period of suspension of accreditation of the accredited power station, the electricity generated is to be omitted in calculating the amount of electricity generated by the power station: see Act, subsection 18 (4).
- 1.3 If fuel is processed in an electricity generation system before it is converted to electrical energy, the fuel processing and delivery components of the system may be taken to be part of a power station for the Act.

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- 1.4 A long-term storage hydro-electric dam that provides water to 2 or more power stations is to be taken to be a component of each power station affected by release of water from the dam.
- 1.5 This Schedule is not intended to limit the kind of components of an electricity generation system that may be taken to be part of a power station for the Act.

2 Bioenergy

- 2.1 The following components of an electricity generation system that uses bioenergy may be taken to be part of a power station for the Act:
- (a) buildings and stationary infrastructure;
 - (b) combustion system, including waste heat boilers;
 - (c) combustion or steam turbine;
 - (d) compressor;
 - (e) control system;
 - (f) cooling tower;
 - (g) digestion tank;
 - (h) feedstock preparation;
 - (i) fuel storage, transport and processing system;
 - (j) gas cleaning system;
 - (k) gasifier;
 - (l) generator;
 - (m) heat recovery system;
 - (n) mechanical cleaner;
 - (o) oxygen supply system;
 - (p) particulate removal system;
 - (q) pumping equipment;
 - (r) switchyard and transformer;
 - (s) thermal reactor;
 - (t) water supply and treatment system.

3 Co-firing

- 3.1 If an electricity generation system co-fires an energy source that is not an eligible renewable energy source and fuel from an eligible renewable energy source, each component of the system (regardless of the kind of energy source used to fuel the component) may be taken to be part of a power station for the Act.

4 Fuel cell

- 4.1 The following components of an electricity generation system that is a fuel cell may be taken to be part of a power station for the Act:
- (a) air filter;
 - (b) anode, electrolyte and cathode;
 - (c) catalytic converter;
 - (d) control system;
 - (e) cooling system;
 - (f) desulphuriser;
 - (g) power conditioner;
 - (h) pumping equipment;
 - (i) steam generator;
 - (j) waste heat recovery system;
 - (k) water filter.

5 Geothermal electricity generation

- 5.1 The following components of a geothermal electricity generation system may be taken to be part of a power station for the Act:
- (a) control system;
 - (b) generator;
 - (c) transformer;
 - (d) turbine;
 - (e) water treatment system;
 - (f) well;

-
- (g) working fluid.

6 Hydro-electricity

- 6.1 The following components of a hydro-electric electricity generation system may be taken to be part of a power station for the Act:
- (a) control, telemetering and protection system;
 - (b) turbine, generator, associated buildings, transformer and grid connection;
 - (c) water channelling infrastructure;
 - (d) water discharge system;
 - (e) water intake system;
 - (f) water storage or weir;
 - (g) for a pumped storage hydro-electric power station — pumping equipment.

7 Ocean, wave and tide

- 7.1 The following components of an ocean, wave or tide electricity generation system may be taken to be part of a power station for the Act:
- (a) the equipment used:
 - (i) to channel or trap water; or
 - (ii) to exchange heat; or
 - (iii) to provide for air or water flow;
 - (b) generators;
 - (c) turbines.

8 Solar electricity generation

- 8.1 The following components of a solar electricity generation system may be taken to be part of a power station for the Act:
- (a) device for converting incident solar energy to electrical energy;

Examples

Photovoltaic panels, solar thermal collectors.

-
- (b) enabling equipment, including:
 - (i) DC and AC cabling;
 - (ii) energy storage system, including specially designed batteries;
 - (iii) inverter for converting DC output of a generator to AC;
 - (iv) backup power supply;
 - (v) framework and housing for the system;
 - (vi) trackers and sensors;
 - (vii) instrumentation;
 - (viii) control system.

10 Wind

- 10.1 The following components of an electricity generation system that is a wind farm may be taken to be part of a power station for the Act:
 - (a) rotor;
 - (b) generator;
 - (c) control system;
 - (d) tower;
 - (e) cabling to transformer and other wind turbines;
 - (f) battery.

Schedule 3 Guidelines for determining 1997 eligible renewable power baseline for a power station

(regulation 5)

1 Nil baselines

- 1.1 The 1997 eligible renewable power baseline for a power station is nil if:
- (a) before 1 January 1997, the power station generated electricity using an energy source that was not an eligible renewable energy source and, on or after that date, the power station began generating electricity using an eligible renewable energy source; or
 - (b) the power station began generating electricity for the first time on or after 1 January 1997, and all or part of the electricity was generated using an eligible renewable energy source; or
 - (c) the power station was built after 1 January 1997 to take advantage of a change in water flow as a result of an action or policy of the Commonwealth Government to divert water from one power station to another.

2 Default baselines

- 2.1 For a power station that generated electricity using an eligible renewable energy source before 1 January 1997, the 1997 eligible renewable power baseline is the average of the annual electricity generated from eligible renewable energy sources in 1994, 1995 and 1996 (the *reference period*), worked out in accordance with Subdivision 2.3.1.
- 2.2 If the amount of electricity generated using an eligible renewable energy source was not measured in the manner provided by these Regulations, the amount should be estimated from the measurements that were made and worked out in accordance with Subdivision 2.3.1.

-
- 2.3 However, if the power station did not generate electricity using an eligible renewable energy source continuously in the reference period, the Regulator may:
- (a) for a power station that generated electricity using an eligible renewable energy source for at least 24 months in the reference period:
 - (i) extrapolate the amount of electricity generated using an eligible renewable energy source or, in consultation with the nominated person for the power station, model the output of the power station over the months when electricity was not generated, based on fuel use, plant capacity and plant technology; and
 - (ii) if, in the reference period, the power station began to generate electricity using an eligible renewable energy source, or increased its capacity to generate electricity using an eligible renewable energy source — model the output of the power station over the year when the power station began to generate electricity or increased its capacity to generate electricity, based on fuel use, plant capacity and plant technology; or
 - (b) for a power station that generated electricity using an eligible renewable energy source for less than 24 months in the reference period:
 - (i) in consultation with the nominated person for the power station, model the output of the power station over the months when electricity was not generated, based on fuel use, plant capacity and plant technology; and
 - (ii) if, in the reference period, the power station began to generate electricity using an eligible renewable energy source, or increased its capacity to generate electricity using an eligible renewable energy source — model the output of the power station over the year when the power station began to generate electricity or increased its capacity to generate electricity, based on fuel use, plant capacity and plant technology.

-
- 2.4 If, in the reference period, the power station generated, on an intermittent basis, electricity using an eligible renewable energy source, the Regulator may consider the level of operation at a particular time to be representative of a full year's production.
- 2.5 However, subclause 2.4 applies only if the intermittent nature of the production was caused by the cyclical availability of fuel.

3 Special baselines

- 3.1 This clause applies to a power station that generates electricity using an eligible renewable energy source.
- 3.1A The nominated person for the power station may apply to the Regulator, or the Regulator may decide on his or her own initiative, to determine a 1997 eligible renewable power baseline for the power station in a manner different from that set out in clause 2, if:
- (a) the nominated person or the Regulator considers that a period other than the reference period mentioned in clause 2 would be more representative of the normal operational cycles of the power station; and
 - (b) any of the conditions mentioned in subclause 3.2 are satisfied.
- 3.2 The Regulator may determine a 1997 eligible renewable power baseline for the power station in a manner different from that set out in clause 2 if:
- (a) electricity generated using an eligible renewable energy source by the power station is linked to seasonal variations of longer than 3 years; or
 - (aa) measurement for the reference period would not be representative of 1997 levels of generation; or
 - (b) at any time in the reference period, there were major changes to the infrastructure or operating environment of the power station; or
 - (c) determining the baseline in accordance with clause 2 would cause hardship for the nominated person; or

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- (d) the amount of electricity generated by the power station before 1994 using an eligible renewable energy source was significantly different from that generated in the reference period for reasons other than the capacity of the power station, demand for electricity or other operating constraints; or
 - (e) at any time in the reference period, the power station's capacity to generate electricity using an eligible renewable energy source, or its output, was significantly reduced by unplanned outages or other operating constraints; or
 - (f) an action or policy of the Commonwealth government directly reduced the power station's capacity to generate electricity using an eligible renewable energy source for a sustained period.
- 3.3 In determining a 1997 eligible renewable power baseline for the power station in a manner different from that set out in clause 2, the Regulator should take into account:
- (a) the need for the baseline to be representative of the amount of electricity the power station could have generated using an eligible renewable energy source in 1997 under normal conditions; and
 - (b) the generation capacity of the power station; and
 - (c) the amount of electricity the power station has had to generate using an eligible renewable energy source to meet the requirements of the electricity grid; and
 - (d) any other matters that might have affected the amount of electricity the power station generated using an eligible renewable energy source; and
 - (e) any other information provided by the nominated person about electricity generated by the power station.
- 3.3A For subclause 3.3, the Regulator may take into account information about 1997 or later years.
- 3.4 Subclause 3.5 applies to a power station:
- (a) that is closed for at least 3 years continuously after 1 January 1997; and
 - (b) that is refurbished at a cost of at least half the replacement cost of the power station at the same capacity.

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- 3.5 The power station may be considered to be a new power station.

6 Baselines in 2001

- 6.1 For 2001, the 1997 eligible renewable power baseline for a power station is taken to be three-quarters of the baseline determined for the power station.

Schedule 4 Determination of solar water heater certificates

(subregulation 19B (4))

Item	Australian Standard
1	AS/NZS 2535.1:2007, 'Test methods for solar collectors — Thermal performance of glazed liquid heating collectors including pressure drop'
2	AS/NZS 4234:2008, <i>Heated water systems — Calculation of energy consumption</i>
3	AS/NZS 4692.1:2005, 'Electric water heaters — Energy consumption, performance and general requirements'

Schedule 5 Zone ratings and zones for solar (photovoltaic) systems

(subregulation 20 (4))

Part 1 Zone ratings

Item	Zone	Rating
1	1	1.622
2	2	1.536
3	3	1.382
4	4	1.185

Part 2 Zones

Item	Postcodes		Zone	Item	Postcodes		Zone
	From	To			From	To	
1	0000	0799	3	16	2411	2414	2
2	0800	0869	2	17	2415	2536	3
3	0870	0879	1	18	2537	2537	4
4	0880	1000	2	19	2538	2544	3
5	1001	2356	3	20	2545	2557	4
6	2357	2357	2	21	2558	2626	3
7	2358	2384	3	22	2627	2629	4
8	2385	2393	2	23	2630	2630	3
9	2394	2395	3	24	2631	2639	4
10	2396	2398	2	25	2640	2820	3
11	2399	2399	3	26	2821	2842	2
12	2400	2400	2	27	2843	2872	3
13	2401	2404	3	28	2873	2874	2
14	2405	2407	2	29	2875	2876	3
15	2408	2410	3	30	2877	2889	2

Item	Postcodes		Zone	Item	Postcodes		Zone
	From	To			From	To	
31	2890	2897	3	59	4000	4416	3
32	2898	2899	3	60	4417	4417	2
33	2900	2999	3	61	4418	4422	3
34	3000	3390	4	62	4423	4423	2
35	3391	3398	3	63	4424	4426	3
36	3399	3413	4	64	4427	4473	2
37	3414	3426	3	65	4474	4476	1
38	3427	3474	4	66	4477	4478	2
39	3475	3514	3	67	4479	4485	1
40	3515	3516	4	68	4486	4490	2
41	3517	3520	3	69	4491	4492	1
42	3521	3524	4	70	4493	4499	2
43	3525	3538	3	71	4500	4721	3
44	3539	3539	4	72	4722	4722	2
45	3540	3549	3	73	4723	4723	3
46	3550	3560	4	74	4724	4735	2
47	3561	3569	3	75	4736	4736	1
48	3570	3570	4	76	4737	4824	3
49	3571	3606	3	77	4825	4827	2
50	3607	3617	4	78	4828	4828	3
51	3618	3622	3	79	4829	4829	2
52	3623	3628	4	80	4830	5261	3
53	3629	3657	3	81	5262	5263	4
54	3658	3684	4	82	5264	5270	3
55	3685	3687	3	83	5271	5300	4
56	3688	3724	4	84	5301	5429	3
57	3725	3731	3	85	5430	5450	2
58	3732	3999	4	86	5451	5653	3

Item	Postcodes		Zone	Item	Postcodes		Zone
	From	To			From	To	
87	5654	5669	2	115	6507	6555	2
88	5670	5679	3	116	6556	6573	3
89	5680	5699	2	117	6574	6602	2
90	5700	5709	3	118	6603	6607	3
91	5710	5722	2	119	6608	6641	2
92	5723	5724	1	120	6642	6724	1
93	5725	5733	2	121	6725	6750	2
94	5734	5799	1	122	6751	6797	1
95	5800	6243	3	123	6798	6799	2
96	6244	6250	4	124	6800	6999	3
97	6251	6254	3	125	7000	8999	4
98	6255	6270	4	126	9000	9999	3
99	6271	6315	3				
100	6316	6357	4				
101	6358	6393	3				
102	6394	6400	4				
103	6401	6430	3				
104	6431	6431	2				
105	6432	6433	3				
106	6434	6439	2				
107	6440	6441	1				
108	6442	6444	3				
109	6445	6459	4				
110	6460	6467	3				
111	6468	6469	2				
112	6470	6471	3				
113	6472	6474	2				
114	6475	6506	3				

Schedule 6 Emissions-intensive trade-exposed activities

(regulation 22D)

Part 1 Preliminary

601 Preliminary

- (1) In this Schedule:
 - (a) Division 1 of a Part (other than this Part) specifies activities that are emissions-intensive trade-exposed activities; and
 - (b) Division 2 of the Part sets out whether the activity is:
 - (i) highly emissions-intensive; or
 - (ii) moderately emissions-intensive; and
 - (c) Division 3 of the Part sets out the electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the activity.

Note The matters mentioned in paragraphs (b) and (c) are required for the purpose of calculating the amount of a liable entity's partial exemption for a year in relation to an emissions-intensive trade-exposed activity and site — see paragraph 46B (1) (a) of the Act. The method for calculating the relevant amount is set out in regulations 22Z to 22ZH.

- (2) In this Schedule, unless the contrary intention appears:
 - (a) a concentration of a substance that is expressed as a percentage is a percentage with respect to mass; and
 - (b) a reference to the moisture content of a substance expressed as a percentage is a percentage with respect to mass.

Part 2 Production of glass containers

Division 1 Production of glass containers

602 Production of glass containers

- (1) The production of glass containers is the physical and chemical transformation of silica (silicon dioxide (SiO_2)) and other raw and recycled materials (such as cullet) to produce blown or pressed glass containers, by controlled melting and forming in a contiguous process.
- (2) The production of glass containers is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

603 Classification of activity

The production of glass containers is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

604 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of glass containers is 0.308 MWh per tonne of blown and pressed glass containers that are:

- (a) produced by carrying on the emissions-intensive trade-exposed activity; and
- (b) of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 3 Production of bulk flat glass

Division 1 Production of bulk flat glass

605 Production of bulk flat glass

- (1) The production of bulk flat glass is the physical and chemical transformation of silica (silicon dioxide (SiO₂)) and other raw and recycled materials (such as cullet) to produce bulk flat glass products, including wired glass and patterned glass, by controlled melting and forming in a contiguous process.
- (2) The production of bulk flat glass is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

606 Classification of activity

The production of bulk flat glass is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

607 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of bulk flat glass is 0.276 MWh per tonne of bulk flat glass that is:

- (a) produced by carrying on the emissions-intensive trade-exposed activity; and
- (b) of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 4 Production of methanol

Division 1 Production of methanol

608 Production of methanol

- (1) The production of methanol is the chemical transformation of 1 or more of the following:
 - (a) hydrocarbons;
 - (b) hydrogen feedstocks;
 - (c) carbon feedstocks;
 - (d) oxygen feedstocks;to produce liquid methanol (CH_3OH) in which the concentration of methanol is equal to or greater than 98%.
- (2) The production of methanol is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

609 Classification of activity

The production of methanol is specified as a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

610 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of methanol is 0.490 MWh per tonne of 100% equivalent methanol (CH_3OH) that is produced by carrying on the emissions-intensive trade-exposed activity.

Part 5 Production of carbon black

Division 1 Production of carbon black

611 Production of carbon black

- (1) The production of carbon black is the chemical transformation of gaseous or liquid hydrocarbons to produce a colloidal carbon material (known as ‘carbon black’) in the form of spheres or of fused aggregates of the spheres.
- (2) The particle size of the colloidal carbon must be below 1 000nm in at least 1 dimension.
- (3) The production of carbon black is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

612 Classification of activity

The production of carbon black is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

613 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity’s partial exemption in respect of the production of carbon black is 0.514 MWh per tonne, on a dry weight basis, of pelletised carbon black that is:

- (a) produced by carrying on the emissions-intensive trade-exposed activity; and
- (b) of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 6 Production of white titanium dioxide (TiO₂) pigment

Division 1 Production of white titanium dioxide (TiO₂) pigment

614 Production of white titanium dioxide (TiO₂) pigment

- (1) The production of white titanium dioxide (TiO₂) pigment is the chemical transformation of 1 or more of the following:
 - (a) rutile (TiO₂);
 - (b) synthetic rutile (TiO₂);
 - (c) ilmenite (FeTiO₃);
 - (d) leucoxene;
 - (e) titanium slag that has an iron (Fe) concentration of greater than or equal to 7%;to produce white titanium dioxide (TiO₂) pigment.
- (2) The white titanium dioxide (TiO₂) pigment must:
 - (a) conform with ASTM classification D476-00; and
 - (b) have an iron (Fe) concentration of less than or equal to 0.5%.
- (3) The production of white titanium dioxide (TiO₂) pigment is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

615 Classification of activity

The production of white titanium dioxide (TiO₂) pigment is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

616 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of white titanium dioxide (TiO₂) pigment is 0.986 MWh per tonne of white titanium dioxide pigment that:

- (a) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (b) conforms with ASTM classification D476-00; and
- (c) has an iron (Fe) concentration of less than or equal to 0.5%; and
- (d) is of saleable quality.

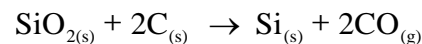
Note **Saleable quality** is defined in regulation 22C.

Part 7 Production of silicon

Division 1 Production of silicon

617 Production of silicon

- (1) The production of silicon is the chemical transformation of silica (silicon dioxide (SiO₂)) to produce silicon (Si) with a concentration of silicon equal to or greater than 98.0%, conducted in accordance with the overall chemical equation:



-
- (2) The production of silicon is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

618 Classification of activity

The production of silicon is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

619 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of silicon is 11.7 MWh per tonne of silicon that:

- (a) has a concentration of silicon equal to or greater than 98.0%; and
- (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 8 Smelting zinc

Division 1 Smelting zinc

620 Smelting zinc

- (1) Smelting zinc is the chemical transformation of either or both of:
- (a) concentrated mineralised zinc compounds; and
 - (b) zinc-bearing secondary materials;
- to produce zinc metal (Zn) with a concentration of zinc equal to or greater than 99.95%.

- (2) Smelting zinc is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

621 Classification of activity

Smelting zinc is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

622 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of smelting zinc is 4.25 MWh per tonne of zinc that:

- (a) has a concentration of zinc equal to or greater than 99.95%; and
- (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 9 Integrated production of lead and zinc

Division 1 Integrated production of lead and zinc

623 Integrated production of lead and zinc

- (1) The integrated production of lead and zinc is the chemical transformation of either or both of:
- (a) concentrated mineralised lead compounds, with or without additional lead-bearing secondary materials; and
 - (b) concentrated mineralised zinc compounds, with or without additional zinc-bearing secondary materials;

to produce:

- (c) lead metal (Pb) with a concentration of lead equal to or greater than 99.97%; and
 - (d) zinc in fume (Zn) with a concentration of zinc equal to or greater than 60%.
- (2) The integrated production of lead and zinc is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

624 Classification of activity

The integrated production of lead and zinc is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

625 Electricity baseline for product

- (1) For the production of lead metal (Pb), the basis for calculating the amount of a liable entity's partial exemption is 0.355 MWh per tonne of lead metal that:
- (a) has a concentration of lead equal to or greater than 99.97%; and
 - (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (c) is of saleable quality.
- Note* **Saleable quality** is defined in regulation 22C.
- (2) For the production of zinc in fume (Zn), the basis for calculating the amount of a liable entity's partial exemption is 0.820 MWh per tonne of 100% equivalent zinc contained within zinc in fume that:
- (a) has a concentration of zinc equal to or greater than 60%; and
 - (b) is produced by carrying on the emissions-intensive trade-exposed activity.

Part 10 Aluminium smelting

Division 1 Aluminium smelting

626 Aluminium smelting

- (1) Aluminium smelting is the physical and chemical transformation of alumina (aluminium oxide (Al₂O₃)) into saleable aluminium metal (Al).
- (2) Aluminium smelting is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

627 Classification of activity

Aluminium smelting is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

628 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of aluminium smelting is 15.0 MWh per tonne of primary aluminium (Al) that:

- (a) has a concentration of aluminium equal to or greater than 98%; and
- (b) is produced as part of carrying on the emissions-intensive trade-exposed activity; and
- (c) is weighed after electrolysis but before casting.

Part 11 Production of high purity ethanol

Division 1 Production of high purity ethanol

629 Production of high purity ethanol

- (1) The production of high purity ethanol is the chemical transformation of fermentable sugars (such as $C_6H_{12}O_6$, $C_5H_{10}O_5$, $C_{12}H_{22}O_{11}$ or $C_{18}H_{32}O_{16}$) to ethanol (C_2H_5OH) and subsequent purification process to obtain a solution of high purity ethanol where the concentration of ethanol is equal to or greater than 95% with respect to volume.
- (2) The production of high purity ethanol is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

630 Classification of activity

The production of high purity ethanol is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

631 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of high purity ethanol is 0.168 MWh per kilolitre of 100% equivalent ethanol (C_2H_5OH) at 20 °C that is produced by carrying on the emissions-intensive trade-exposed activity, assuming a density of ethanol of 789.24 kg/m³ at 20 °C.

Part 12 Production of magnesia

Division 1 Production of magnesia

632 Production of magnesia

- (1) The production of magnesia is the chemical and physical transformation of magnesite (magnesium carbonate (MgCO_3)) into 1 or more of the following magnesia products:
 - (a) caustic calcined magnesia that:
 - (i) has a concentration of magnesium oxide (MgO) equal to or greater than 75%; and
 - (ii) is burned between 650 °C and 1 200 °C;
 - (b) deadburned magnesia that:
 - (i) has a concentration of magnesium oxide equal to or greater than 85%; and
 - (ii) has grain density of 2.85 g/cm³ to 3.45 g/cm³; and
 - (iii) is burned between 1 300 °C and 2 200 °C;
 - (c) electrofused magnesia that:
 - (i) has a concentration of magnesium oxide equal to or greater than 90%; and
 - (ii) has grain density of greater than 3.45 g/cm³; and
 - (iii) is fused at temperatures in excess of 2 750 °C.
- (2) The production of magnesia is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

633 Classification of activity

The production of magnesia is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

634 Electricity baseline for product

- (1) For the production of caustic calcined magnesita, the basis for calculating the amount of a liable entity's partial exemption is 0.0757 MWh per tonne of caustic calcined magnesita on a dry weight basis that:
 - (a) has a concentration of magnesium oxide (MgO) equal to or greater than 75%; and
 - (b) is produced by, or as part of, carrying on the emissions-intensive trade-exposed activity; and
 - (c) is of saleable quality;
whether or not it is later transformed into deadburned magnesita or electrofused magnesita.

Note **Saleable quality** is defined in section 22C.
- (2) For the production of deadburned magnesita, the basis for calculating the amount of a liable entity's partial exemption is 0.202 MWh per tonne of deadburned magnesita on a dry weight basis that:
 - (a) has a concentration of magnesium oxide equal to or greater than 85%; and
 - (b) has grain density of 2.85 g/cm³ to 3.45 g/cm³; and
 - (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (d) is of saleable quality.

Note **Saleable quality** is defined in section 22C.
- (3) For the production of electrofused magnesita, the basis for calculating the amount of a liable entity's partial exemption is 2.45 MWh per tonne of electrofused magnesita on a dry weight basis that:
 - (a) has a concentration of magnesium oxide equal to or greater than 90%; and
 - (b) has grain density of greater than 3.45 g/cm³; and
 - (c) is produced by carrying on the emissions-intensive trade-exposed activity; and

(d) is of saleable quality.

Note *Saleable quality* is defined in section 22C.

Part 13 Manufacture of newsprint

Division 1 Manufacture of newsprint

635 Manufacture of newsprint

- (1) The manufacture of newsprint is the physical or chemical transformation of any or all of woodchips, sawdust, wood pulp and recovered paper into rolls of uncoated newsprint that:
 - (a) has a grammage range of 30 g/m² to 80 g/m²; and
 - (b) has a moisture content in the range of 6% to 11%; and
 - (c) is generally usable for newspaper products; through an integrated process.
- (2) The manufacture of newsprint is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

636 Classification of activity

The manufacture of newsprint is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

637 Electricity baseline for product

- (1) For the manufacture of uncoated newsprint that:
 - (a) has a grammage range of 30 g/m² to 80 g/m²; and
 - (b) has a moisture content in the range of 6% to 11%; and

(c) is generally usable for newspaper products;
the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.697 MWh per air dried tonne of rolls of uncoated newsprint of saleable quality produced by carrying on the emissions-intensive trade-exposed activity.

Note **saleable quality** is defined in regulation 22C.

- (2) For the production of pulp from either or both of woodchips and sawdust, the basis for calculating the amount of a liable entity's partial exemption is 2.48 MWh per tonne of bone dried equivalent pulp that is:
- (a) used in the integrated process of manufacturing newsprint; and
 - (b) produced as part of carrying on the emissions-intensive trade-exposed activity.
- (3) For the production of pulp from recovered paper, the basis for calculating the amount of a liable entity's partial exemption is 0.431 MWh per tonne of bone dried equivalent pulp that is:
- (a) used in the integrated process of manufacturing newsprint; and
 - (b) produced as part of carrying on the emissions-intensive trade-exposed activity.
- (4) For this Part, an amount of pulp or paper that is used as a basis for calculating the amount of a liable entity's partial exemption for 1 of the following emissions-intensive trade-exposed activities:
- (a) the manufacture of newsprint;
 - (b) dry pulp manufacturing;
 - (c) cartonboard manufacturing;
 - (d) packaging and industrial paper manufacturing;
 - (e) printing and writing paper manufacturing;
 - (f) tissue paper manufacturing;
- does not count for the purpose of the basis for allocation of another of those emissions-intensive trade-exposed activities.

Part 14 Dry pulp manufacturing

Division 1 Dry pulp manufacturing

638 Dry pulp manufacturing

- (1) Dry pulp manufacturing is the physical or chemical transformation of any or all of wood chips, sawdust, wood pulp and recovered paper into either or both of rolls and bales of dry pulp that:
 - (a) has a moisture content in the range of 4% to 14%; and
 - (b) is generally useable in either or both of:
 - (i) paper manufacturing; and
 - (ii) the production of sanitary products (such as a fluff pulp layer in sanitary products).
- (2) Dry pulp manufacturing is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

639 Classification of activity

Dry pulp manufacturing is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

640 Electricity baseline for product

- (1) For dry pulp manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.404 MWh per tonne of either or both of rolls and bales of dry pulp that:
 - (a) has a moisture content in the range of 4% to 14%; and
 - (b) is generally useable in either or both of:
 - (i) paper manufacturing; and

- (ii) the production of sanitary products (such as a fluff pulp layer in sanitary products); and
- (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (d) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

- (2) For the production of pulp from either or both of woodchips and sawdust as part of dry pulp manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.448 MWh per total air dried tonne (applying a 10% moisture content) of equivalent pulp that is:
 - (a) produced from either or both of woodchips and sawdust;
 - (b) used in the process of manufacturing dry pulp; and
 - (c) produced as part of carrying on the emissions-intensive trade-exposed activity.
- (3) For this Part, an amount of pulp or paper that is used as a basis for calculating the amount of a liable entity's partial exemption for 1 of the following emissions-intensive trade-exposed activities:
 - (a) the manufacture of newsprint;
 - (b) dry pulp manufacturing;
 - (c) cartonboard manufacturing;
 - (d) packaging and industrial paper manufacturing;
 - (e) printing and writing paper manufacturing;
 - (f) tissue paper manufacturing;does not count for the purpose of the basis for allocation of another of those emissions-intensive trade-exposed activities.

Part 15 Cartonboard manufacturing

Division 1 Cartonboard manufacturing

641 Cartonboard manufacturing

- (1) Cartonboard manufacturing is the physical or chemical transformation of any or all of wood chips, sawdust, wood pulp and recovered paper into rolls of cartonboard that:
 - (a) has a grammage range of 150 g/m² to 500 g/m²; and
 - (b) has a moisture content in the range of 4% to 11%, and
 - (c) is coated; and
 - (d) is generally useable as cartonboard product such as coated kraft liner, coated multiply and other coated paperboard.
- (2) Cartonboard manufacturing is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

642 Classification of activity

Cartonboard manufacturing is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

643 Electricity baseline for product

- (1) For cartonboard manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.775 MWh per total tonne of rolls of cartonboard that:
 - (a) has a grammage range of 150 g/m² to 500 g/m²; and
 - (b) has a moisture content in the range of 4% to 11%; and
 - (c) is coated; and

-
- (d) is generally useable as cartonboard product such as coated kraft liner, coated multiply and other coated paperboard; and
 - (e) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (f) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

- (2) For the production of pulp from either or both of woodchips and sawdust as part of cartonboard manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.448 MWh per total air dried tonne (applying a 10% moisture content) of equivalent pulp that is:
 - (a) produced from either or both of woodchips and sawdust; and
 - (b) used in the process of cartonboard manufacturing; and
 - (c) produced as part of carrying on the emissions-intensive trade-exposed activity.
- (3) For this Part, an amount of pulp or paper that is used as a basis for calculating the amount of a liable entity's partial exemption for 1 of the following emissions-intensive trade-exposed activities:
 - (a) the manufacture of newsprint;
 - (b) dry pulp manufacturing;
 - (c) cartonboard manufacturing;
 - (d) packaging and industrial paper manufacturing;
 - (e) printing and writing paper manufacturing;
 - (f) tissue paper manufacturing;does not count for the purpose of the basis for allocation of another of those emissions-intensive trade-exposed activities.

Part 16 Packaging and industrial paper manufacturing

Division 1 Packaging and industrial paper manufacturing

644 Packaging and industrial paper manufacturing

- (1) Packaging and industrial paper manufacturing is the physical or chemical transformation of any or all of wood chips, sawdust, wood pulp and recovered paper into rolls of packaging and industrial paper that
 - (a) is produced from wholly or partially unbleached input fibre; and
 - (b) has a grammage range of 30 g/m² to 500 g/m²; and
 - (c) has a moisture content in the range of 4% to 11%; and
 - (d) is uncoated; and
 - (e) is generally useable as a packaging or industrial paper, including products such as kraft liner, recycled or multiply liner, medium, sack and bag paper, wrapping paper, plasterboard liner, horticultural paper and building paper.
- (2) Packaging and industrial paper manufacturing is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

645 Classification of activity

Packaging and industrial paper manufacturing is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

646 Electricity baseline for product

- (1) For packaging and industrial paper manufacturing, the basis for calculating the amount of a liable entity's partial exemption is

0.554 MWh per total tonne of rolls of packaging and industrial paper that:

- (a) is produced from wholly or partially unbleached input fibre; and
- (b) has a grammage range of 30 g/m² to 500 g/m²; and
- (c) has a moisture content in the range of 4% to 11%; and
- (d) is uncoated; and
- (e) is generally useable as a packaging or industrial paper product, including products such as kraft liner, recycled or multiply liner, medium, sack and bag paper, wrapping paper, plasterboard liner, horticultural paper and building paper.
- (e) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (f) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

- (2) For the production of pulp from either or both of woodchips and sawdust as part of packaging and industrial paper manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.448 MWh per total air dried tonne (assuming a 10% moisture content) of equivalent pulp that is:
 - (a) produced from either or both of woodchips and sawdust; and
 - (b) used in the process of manufacturing packaging and industrial paper; and
 - (c) produced as part of carrying on the emissions-intensive trade-exposed activity.
- (3) For this Part, an amount of pulp or paper that is used as a basis for calculating the amount of a liable entity's partial exemption for 1 of the following emissions-intensive trade-exposed activities:
 - (a) the manufacture of newsprint;
 - (b) dry pulp manufacturing;
 - (c) cartonboard manufacturing;
 - (d) packaging and industrial paper manufacturing;

- (e) printing and writing paper manufacturing;
- (f) tissue paper manufacturing;

does not count for the purpose of the basis for allocation of another of those emissions-intensive trade-exposed activities.

Part 17 Printing and writing paper manufacturing

Division 1 Printing and writing paper manufacturing

647 Printing and writing paper manufacturing

- (1) Printing and writing paper manufacturing is the physical or chemical transformation of any or all of wood chips, sawdust, wood pulp and recovered paper into rolls of coated or uncoated printing and writing paper that:
 - (a) is produced from 100% bleached or brightened input fibre; and
 - (b) has a grammage range of 42 g/m² to 350 g/m²; and
 - (c) has a moisture content in the range of 4% to 11%; and
 - (d) is generally useable as a printing and writing paper product, including products such as offset paper, copy paper, laser printing paper, magazine paper, filing card paper, manilla, book printing paper, envelope paper, forms paper, scholastic paper, cheque paper and security paper.
- (2) Printing and writing paper manufacturing is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

648 Classification of activity

Printing and writing paper manufacturing is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

649 Electricity baseline for product

- (1) For printing and writing paper manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.880 MWh per total tonne of rolls of coated or uncoated printing and writing paper that:
 - (a) is produced from 100% bleached or brightened input fibre; and
 - (b) has a grammage range of 42 g/m² to 350 g/m²; and
 - (c) has a moisture content in the range of 4% to 11%; and
 - (d) is generally useable as a printing and writing paper product, including products such as offset paper, copy paper, laser printing paper, magazine paper, filing card paper, manilla, book printing paper, envelope paper, forms paper, scholastic paper, cheque paper and security paper; and
 - (e) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (f) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.
- (2) For the production of pulp from either or both of woodchips and sawdust as part of printing and writing paper manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.448 MWh per total air dried tonne (assuming a 10% moisture content) of equivalent pulp that is:
 - (a) produced from either or both of woodchips and sawdust; and

- (b) used in the process of manufacturing printing and writing paper; and
 - (c) produced as part of carrying on the emissions-intensive trade-exposed activity.
- (3) For this Part, an amount of pulp or paper that is used as a basis for calculating the amount of a liable entity's partial exemption for 1 of the following emissions-intensive trade-exposed activities:
 - (a) the manufacture of newsprint;
 - (b) dry pulp manufacturing;
 - (c) cartonboard manufacturing;
 - (d) packaging and industrial paper manufacturing;
 - (e) printing and writing paper manufacturing;
 - (f) tissue paper manufacturing;does not count for the purpose of the basis for allocation of another of those emissions-intensive trade-exposed activities.

Part 18 Alumina refining

Division 1 Alumina refining

650 Alumina refining

- (1) Alumina refining is the physical and chemical transformation of bauxite (which is an ore containing mineralised aluminium compounds) into alumina (aluminium oxide (Al_2O_3)) with a concentration of aluminium oxide equal to or greater than 95%.
- (2) Alumina refining is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

651 Classification of activity

Alumina refining is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

652 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in relation to alumina refining is 0.228 MWh per tonne of alumina (aluminium oxide (Al_2O_3)) that:

- (a) has a concentration of aluminium oxide equal to or greater than 95%; and
- (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 19 Tissue paper manufacturing

Division 1 Tissue paper manufacturing

653 Tissue paper manufacturing

- (1) Tissue paper manufacturing is the physical or chemical transformation of any or all of wood chips, sawdust, wood pulp and recovered paper into rolls of uncoated tissue paper that:
 - (a) has a grammage range of 13 g/m² to 75 g/m²; and
 - (b) has a moisture content in the range of 4% to 11%; and
 - (c) is generally useable in sanitary products such as facial tissue, paper towel, bathroom tissue and napkins.
- (2) Tissue paper manufacturing is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

654 Classification of activity

Tissue paper manufacturing is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

655 Electricity baseline for product

- (1) Subject to subclause (3), for tissue paper manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 1.70 MWh per total tonne of rolls of uncoated tissue paper that:
 - (a) has a grammage range of 13 g/m² to 75 g/m²; and
 - (b) has a moisture content in the range of 4% to 11%; and
 - (c) is generally useable in sanitary products such as facial tissue, paper towel, bathroom tissue and napkins; and
 - (d) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (e) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.
- (2) For the production of pulp from either or both of woodchips and sawdust as part of the tissue paper manufacturing, the basis for calculating the amount of a liable entity's partial exemption is 0.448 MWh per total air dried tonne (assuming a 10% moisture content) of equivalent pulp that is:
 - (a) produced from either or both of woodchips and sawdust; and
 - (b) used in the process of manufacturing tissue paper; and
 - (c) produced as part of carrying on the emissions-intensive trade-exposed activity.

- (3) For this Part, an amount of pulp or paper that is used as a basis for calculating the amount of a liable entity's partial exemption for 1 of the following emissions-intensive trade-exposed activities:
- (a) the manufacture of newsprint;
 - (b) dry pulp manufacturing;
 - (c) cartonboard manufacturing;
 - (d) packaging and industrial paper manufacturing;
 - (e) printing and writing paper manufacturing;
 - (f) tissue paper manufacturing;
- does not count for the purpose of the basis for allocation of another of those emissions-intensive trade-exposed activities.

Part 20 Integrated iron and steel manufacturing

Division 1 Integrated iron and steel manufacturing

656 Integrated iron and steel manufacturing

- (1) Integrated iron and steel manufacturing is the chemical and physical transformation of iron ore into crude carbon steel products and hot-rolled carbon steel products involving all of the following processes:
- (a) the chemical and physical transformation of iron ore into agglomerated iron ore, such as iron ore sinter or iron ore pellets;
 - (b) the carbonisation of coal (principally coking coal) into coke oven coke;
 - (c) the chemical and physical transformation of either or both of limestone or dolomite, into lime (including burnt lime and burnt dolomite);
 - (d) the chemical and physical transformation of iron ore feed, including agglomerated iron ore, into molten iron which includes the reduction of oxides of iron using carbon as the predominant reducing agent;

- (e) subject to subclause (3), the chemical and physical transformation of molten iron and cold ferrous feed, such as pig iron, flat iron and ferrous scrap, into 1 or more of the following:
 - (i) continuously cast carbon steel products;
 - (ii) ingots of carbon steel;
 - (iii) hot-rolled carbon steel products, which commenced hot-rolling at a temperature above 800 °C.

Note **Carbon steel** and **coke oven coke** are defined in regulation 22A.

- (2) Integrated iron and steel manufacturing may also include the physical transformation of continuously cast carbon steel products into hot-rolled carbon steel products which commence hot-rolling at a temperature above 800 °C if the continuously cast carbon steel products are produced:
 - (a) at a site that:
 - (i) conducts the activity of integrated iron and steel manufacturing; and
 - (ii) is not a site that is part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; or
 - (b) from the activity of manufacture of carbon steel from cold ferrous feed.

Note **Activity group** is defined in regulation 22A.

- (3) For paragraph (1) (e), the maximum percentage of cold ferrous feed transformed into 1 or more of the items in subparagraphs (1) (e) (i) to (iii) as a proportion of molten iron and cold ferrous feed, must not:
 - (a) for a site that does not meet the criteria specified in subregulation 22ZD (3) for a new entrant site and that is not part of an activity group — be greater than 30% over the relevant financial year for the site; or
 - (b) for a site that does not meet the criteria specified in subregulation 22ZD (3) for a new entrant site and that is part of an activity group — be greater than 30% over the relevant financial year for the sites that are part of the activity group; or

- (c) for a site that does meet the criteria specified in subregulation 22ZD (3) for a new entrant site — be likely to be greater than 30% over the relevant financial year for the site.

Note **Activity group** and **relevant financial year** are defined in regulation 22A.

- (4) Integrated iron and steel manufacturing is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

657 Classification of activity

Integrated iron and steel manufacturing is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

658 Electricity baseline for product

- (1) For the production of iron ore sinter, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.0397 MWh per tonne of iron ore sinter on a dry weight basis that:
- (a) meets the necessary requirements for use in the integrated iron and steel manufacturing process; and
 - (b) is produced as part of carrying on the emissions-intensive trade-exposed activity.
- (2) For the production of iron ore pellets, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.0742 MWh per tonne of iron ore pellets on a dry weight basis that:
- (a) meet the necessary requirements for use in the integrated iron and steel manufacturing process; and
 - (b) are produced as part of carrying on the emissions-intensive trade-exposed activity.

- (3) For the production of coke oven coke, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.0397 MWh per tonne of coke oven coke on a dry weight basis that is produced as part of carrying on the emissions-intensive trade-exposed activity.
 - (4) For the production of lime, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.0405 MWh per tonne of lime on a dry weight basis that:
 - (a) meets the necessary requirements for use in the integrated iron and steel manufacturing process; and
 - (b) is produced as part of carrying on the emissions-intensive trade-exposed activity.
 - (5) For the production of either or both of continuously cast carbon steel products and ingots of carbon steel, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.145 MWh per tonne of either or both of continuously cast carbon steel products and ingots of carbon steel that:
 - (a) are produced as part of carrying on the emissions-intensive trade-exposed activity; and
 - (b) are not a relevant product for the emissions-intensive trade-exposed activity of the manufacture of carbon steel from cold ferrous feed; and
 - (c) are of a saleable quality.
- Note 1* **Carbon steel** and **relevant product** are defined in regulation 22A.
- Note 2* **Saleable quality** is defined in regulation 22C.
- (6) For the production of hot-rolled carbon steel products that are long products, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.133 MWh per tonne of long products of hot-rolled carbon steel that:
 - (a) is in coils or straight lengths; and
 - (b) is generally produced in rod, bar and structural (section) mills; and
 - (c) generally has a cross sectional shape such as I, T, Y, U, V, H, C, L, square, rectangular, round, flat, hexagonal, angle, channel, structural beam profile or rail profile; and

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- (d) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (e) is produced from continuously cast carbon steel products that satisfy the requirements mentioned in subclause (8); and
 - (f) is not a relevant product for the emissions-intensive trade-exposed activity of integrated iron and steel manufacturing that is conducted at a site that is not part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; and
 - (g) is not a relevant product for the emissions-intensive trade-exposed activity of the manufacture of carbon steel from cold ferrous feed; and
 - (h) is of saleable quality.

Note 1 **Activity group**, **carbon steel** and **relevant product** are defined in regulation 22A.

Note 2 **Saleable quality** is defined in regulation 22C.

- (7) For the production of hot-rolled carbon steel products that are flat products, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.116 MWh per tonne of flat products of hot-rolled carbon steel that:
 - (a) is flat in profile, such as plate and hot rolled coil; and
 - (b) is generally produced in hot strip mills and plate mills; and
 - (c) is generally greater than 600 mm in width; and
 - (d) is generally less than 150 mm in thickness; and
 - (e) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (f) is produced from continuously cast carbon steel products that satisfy the requirements mentioned in subclause (8); and
 - (g) is not a relevant product for the emissions-intensive trade-exposed activity of integrated iron and steel manufacturing that is conducted at a site that is not part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; and

- (h) is not a relevant product for the emissions-intensive trade-exposed activity of the manufacture of carbon steel from cold ferrous feed; and
- (i) is of saleable quality.

Note 1 **Activity group**, **carbon steel** and **relevant product** are defined in regulation 22A.

Note 2 **Saleable quality** is defined in regulation 22C.

- (8) For paragraphs (6) (e) and (7) (f), the continuously cast carbon steel products must:
 - (a) be produced as part of carrying on the emissions-intensive trade-exposed activity; or
 - (b) be produced from the activity of integrated iron and steel manufacturing that is conducted at a site that is not part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; or
 - (c) be produced from the activity of manufacture of carbon steel from cold ferrous feed.

Note **Activity group** and **relevant product** are defined in regulation 22A.

Part 21 Manufacture of carbon steel from cold ferrous feed

Division 1 Manufacture of carbon steel from cold ferrous feed

659 Manufacture of carbon steel from cold ferrous feed

- (1) The manufacture of carbon steel from cold ferrous feed is the physical and chemical transformation of cold ferrous feed (such as ferrous scrap, pig iron and flat iron) by heating and melting into liquid steel and the subsequent casting of the liquid steel to produce 1 or more of the following:
 - (a) continuously cast carbon steel products;
 - (b) ingots of carbon steel;
 - (c) hot-rolled carbon steel products, which commenced hot-rolling at a temperature above 800 °C.

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- (2) The manufacture of carbon steel from cold ferrous feed may also include the physical transformation of continuously cast carbon steel products into hot-rolled carbon steel products which commenced hot-rolling at a temperature above 800 °C where the continuously cast carbon steel products are produced:
- (a) at a site that:
- (i) conducts the activity of manufacture of carbon steel from cold ferrous feed; and
 - (ii) is not a site that is part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; or
- (b) from the activity of integrated iron and steel manufacturing.

Note **Activity group** is defined in regulation 22A.

- (3) The manufacture of carbon steel from cold ferrous feed is specified as an emissions-intensive trade-exposed activity.

Note **Carbon steel** is defined in regulation 22A.

Division 2 Classification of activity

660 Classification of activity

The manufacture of carbon steel from cold ferrous feed is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

661 Electricity baseline for product

- (1) For the production of either or both of continuously cast carbon steel products and ingots of carbon steel, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.532 MWh per tonne of either or both continuously cast carbon steel products and ingots of carbon steel that:

- (a) are produced as part of carrying on the emissions-intensive trade-exposed activity; and
- (b) are not a relevant product for the emissions-intensive trade-exposed activity of integrated iron and steel manufacturing; and
- (c) are of a saleable quality.

Note 1 **Carbon steel** and **relevant product** are defined in regulation 22A.

Note 2 **Saleable quality** is defined in regulation 22C.

- (2) For the production of hot-rolled carbon steel products which are long products, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.133 MWh per tonne of long products of hot-rolled carbon steel that:
 - (a) is in coils or straight lengths; and
 - (b) is generally produced in rod, bar and structural (section) mills; and
 - (c) generally has a cross sectional shape such as I, T, Y, U, V, H, C, L, square, rectangular, round, flat, hexagonal, angle, channel, structural beam profile or rail profile; and
 - (d) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (e) is produced from continuously cast carbon steel products that satisfy the requirements mentioned in subclause (4); and
 - (f) is not a relevant product for the emissions-intensive trade-exposed activity of manufacture of carbon steel from cold ferrous feed that is conducted at a site that is not part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; and
 - (g) is not a relevant product for the emissions-intensive trade-exposed activity of integrated iron and steel manufacturing; and
 - (h) is of saleable quality.

Note 1 **Activity group**, **carbon steel** and **relevant product** are defined in regulation 22A.

Note 2 **Saleable quality** is defined in regulation 22C.

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- (3) For the production of hot-rolled carbon steel products which are flat products, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.116 MWh per tonne of flat products of hot-rolled carbon steel that:
- (a) is flat in profile, such as plate and hot rolled coil; and
 - (b) is generally produced in hot strip and plate mills; and
 - (c) is generally greater than 600 mm in width; and
 - (d) is generally less than 150 mm in thickness; and
 - (e) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (f) is produced from continuously cast carbon steel products that satisfy the requirements mentioned in subclause (4); and
 - (g) is not a relevant product for the emissions-intensive trade-exposed activity of manufacture of carbon steel from cold ferrous feed that is conducted at a site that is not part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; and
 - (h) is not a relevant product for the emissions-intensive trade-exposed activity of integrated iron and steel manufacturing; and
 - (i) is of saleable quality.

Note 1 **Carbon steel** is defined in regulation 22A.

Note 2 **Saleable quality** is defined in regulation 22C.

- (4) For paragraphs (2) (e) and (3) (f), the continuously cast carbon steel products must:
- (a) be produced as part of carrying on the emissions-intensive trade-exposed activity; or
 - (b) be produced from the activity of manufacture of carbon steel from cold ferrous feed that is conducted at a site that is not part of the activity group associated with the activity that is the subject of the application made under subsection 46A (1) of the Act; or
 - (c) be produced from the activity of integrated iron and steel manufacturing.

Note **Activity group** and **relevant product** are defined in regulation 22A.

Part 22 Petroleum refining

Division 1 Petroleum refining

662 Petroleum refining

- (1) Petroleum refining is the chemical and physical transformation of stabilised crude petroleum oil, which may be supplemented with 1 or more of condensate, tallow, vegetable oil, eligible petroleum feedstocks or other petroleum feedstocks, to produce a range of refined petroleum products through the following processes:
 - (a) the distillation of stabilised crude petroleum oil, condensate, tallow, vegetable oil and other petroleum feedstocks;
 - (b) the adjustment of the molecular weight and structure of hydrocarbons (such as that which occurs through catalytic or hydro-cracking, steam or catalytic reforming, polymerisation, isomerisation or alkylation);
 - (c) the blending of products from distillation and adjustment of molecular weight and structure to produce Australian and international standard diesel, jet fuel and unleaded petrol;
 - (d) the production of 2 or more of the following refinery products saleable in Australian or international markets:
 - (i) hydrogen;
 - (ii) ethane;
 - (iii) propane;
 - (iv) refinery grade propylene;
 - (v) polymer grade propylene;
 - (vi) liquefied petroleum gas;
 - (vii) butane;
 - (viii) naphtha;
 - (ix) aviation gasoline;
 - (x) before oxygenate blend;
 - (xi) kerosene;
 - (xii) heating oil;

- (xiii) solvents;
- (xiv) lubricant base stocks;
- (xv) leaded petrol;
- (xvi) waxes;
- (xvii) bitumen.

Note **Condensate, eligible petroleum feedstocks, stabilised crude petroleum oil** and **unleaded petrol** are defined in regulation 22A.

- (2) Subject to subclause (3), the activity of petroleum refining will only take place in the application year if both of the following apply:
 - (a) each of the processes mentioned in paragraphs (1) (a) to (d) are conducted within the relevant financial year for the site;
 - (b) the combined volume of diesel, jet fuel, unleaded petrol, lubricant base stocks and bitumen at 15°C and 1 atmosphere produced from stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible petroleum feedstocks is:
 - (i) for a site that does not meet the criteria specified in subregulation 22ZD (3) for a new entrant site and that is not part of an activity group — equal to or greater than 75% of the total kilolitres of stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible petroleum feedstocks used within the relevant financial year for the site; or
 - (ii) for a site that does not meet the criteria specified in subregulation 22ZD (3) for a new entrant site and that is part of an activity group — equal to or greater than 75% of the total kilolitres of stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible petroleum feedstocks used within the relevant financial year for the sites that are part of the activity group; or
 - (ii) for a site that does meet the criteria specified in subregulation 22ZD (3) for a new entrant site — is likely to be equal to or greater than 75% of the total kilolitres of stabilised crude petroleum oil, condensate, tallow, vegetable oil and eligible

petroleum feedstocks likely to be used within the relevant financial year for the site.

Note **Activity group** and **relevant financial year** are defined in regulation 22A.

- (3) The processes mentioned in paragraphs (1) (a) to (d) are not required to be conducted for every product mentioned in paragraphs (1) (c) and (d) for the activity of petroleum refining to occur in the application year.
- (4) Petroleum refining is specified as an emissions-intensive trade-exposed activity.
- (5) For this Part:
application year, for an application under subsection 46A (1) of the Act, means the year for which the application is made for under subsection 46A (1) of the Act.

Division 2 Classification of activity

663 Classification of activity

Petroleum refining is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

664 Electricity baseline for product

- (1) Subject to subclause (2), the electricity baseline for calculating the amount of a liable entity's partial exemption in respect of petroleum refining is 0.0421 MWh per kilolitres of:
 - (a) stabilised crude petroleum oil at 15 °C and 1 atmosphere; and
 - (b) condensate at 15 °C and 1 atmosphere; and
 - (c) tallow at 15 °C and 1 atmosphere; and
 - (d) vegetable oil at 15 °C and 1 atmosphere; and
 - (e) eligible petroleum feedstocks at 15 °C and 1 atmosphere.

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- (2) A substance mentioned in paragraphs (1) (a) to (e) may be used for calculating the amount of a liable entity's partial exemption for subclause (1) if the substance is, or is to be, refined:
- (a) by 1 or both of the processes mentioned in paragraphs 662 (1) (a) and (b); and
 - (b) into either of the following:
 - (i) 1 or more petroleum products mentioned in paragraphs 662 (1) (c) and (d);
 - (ii) other by-products which result from carrying on the emissions-intensive trade-exposed activity; and
 - (c) in the financial year:
 - (i) that applies, for the purpose of subregulation 22ZB (3), to the application made under subsection 46A (1) of the Act; and
 - (ii) in which the combined volume of diesel, jet fuel, unleaded petrol, lubricant base stocks and bitumen, at 15 °C and 1 atmosphere, produced from substances mentioned in paragraphs (1) (a) to (e) is:
 - (A) for new or expected additional production — likely to be equal to or greater than 75% of the total kilolitres of those substances likely to be used in the financial year; or
 - (B) for production that is not new or expected additional production — equal to or greater than 75% of the total kilolitres of those substances used in the financial year.

Note *Condensate, eligible petroleum feedstocks, petroleum oil, stabilised crude* and *unleaded petrol* are defined in regulation 22A.

Part 23 Production of ethene (ethylene)

Division 1 Production of ethene (ethylene)

665 Production of ethene (ethylene)

- (1) The production of ethene (ethylene) is the chemical transformation of hydrocarbons to produce ethene (ethylene)

(C₂H₄) that has a concentration of ethene (ethylene (C₂H₄)) equal to or greater than 99%.

- (2) The production of ethene (ethylene) is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

666 Classification of activity

The production of ethene (ethylene) is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

667 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of ethene (ethylene) is 0.275 MWh per tonne of 100% equivalent ethene (ethylene (C₂H₄)) that is contained within ethene that:

- (a) has a concentration of ethene (ethylene (C₂H₄)) equal to or greater than 99%; and
- (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 24 Production of polyethylene

Division 1 Production of polyethylene

668 Production of polyethylene

- (1) The production of polyethylene is the chemical transformation of ethene (ethylene (C₂H₄)) to produce polyethylene with a standard density equal to or greater than 0.910 g/cm³.

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- (2) The production of polyethylene is specified as an emissions-intensive trade-exposed activity.
- (3) For this Part:
standard density, for polyethylene, means the density of polyethylene moulded to a thickness of 1.9 mm using Procedure C of Annex A1 to ASTM D4703, as in force from time to time.

Division 2 Classification of activity

669 Classification of activity

The production of polyethylene is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

670 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of polyethylene is 0.646 MWh per tonne of pelletised polyethylene that:

- (a) has a standard density equal to or greater than 0.910 g/cm³; and
- (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 25 Production of synthetic rutile

Division 1 Production of synthetic rutile

671 Production of synthetic rutile

- (1) The production of synthetic rutile is the chemical transformation of ilmenite ore (ore containing FeTiO_3) through the reduction of iron oxides in order to increase the titanium dioxide (TiO_2) concentration to produce synthetic rutile that:
 - (a) has a titanium dioxide (TiO_2) concentration equal to or greater than 88% and less than 95.5%; and
 - (b) has an iron (Fe) concentration greater than 0.5%.
- (2) The production of synthetic rutile is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

672 Classification of activity

The production of synthetic rutile is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

673 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of synthetic rutile is 0.304 MWh per tonne of synthetic rutile that:

- (a) has a titanium dioxide (TiO_2) concentration equal to or greater than 88% and less than 95.5%; and
- (b) has an iron (Fe) concentration greater than 0.5%; and

- (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (d) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 26 Production of manganese

Division 1 Production of manganese

674 Production of manganese

- (1) The production of manganese is any of the following:
 - (a) the physical and chemical transformation of manganese (Mn) ore into manganese sinter (Mn_3O_4) that has a concentration of manganese equal to or greater than 40%;
 - (b) the physical and chemical transformation of either or both of manganese ore and manganese sinter into either or both of the following:
 - (i) ferromanganese alloy that has a concentration of manganese equal to or greater than 67%;
 - (ii) silicomanganese alloy that has a concentration of:
 - (A) manganese equal to or greater than 60%; and
 - (B) silicon (Si) equal to or greater than 12%.
- (2) The production of manganese is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

675 Classification of activity

The production of manganese is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

676 Electricity baseline for product

- (1) For the production of manganese sinter, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.0300 MWh per tonne of manganese sinter that:
- (a) has a concentration of manganese equal to or greater than 40%; and
 - (b) is produced by, or as part of, carrying on the emissions-intensive trade-exposed activity; and
 - (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

- (2) For the production of ferromanganese alloy, the electricity baseline for calculating the amount of a liable entity's partial exemption is 2.61 MWh per tonne of ferromanganese alloy that:
- (a) has a concentration of manganese equal to or greater than 67%; and
 - (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (c) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

- (3) For the production of silicomanganese alloy, the electricity baseline for calculating the amount of a liable entity's partial exemption is 4.31 MWh per tonne of silicomanganese alloy that:
- (a) has a concentration of manganese equal to or greater than 60%; and
 - (b) has a concentration of silicon (Si) equal to or greater than 12%; and
 - (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (d) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 27 Production of clinker

Division 1 Production of clinker

677 Production of clinker

- (1) The production of clinker is the physical and chemical transformation of:
 - (a) either or both of calcium carbonate compounds (limestone (CaCO_3)) and other calcium carbonate (CaCO_3) feedstocks; and
 - (b) any of the following:
 - (i) clay;
 - (ii) clay mixed with 1 or more feedstocks that contain 1 or more of the following:
 - (A) silicon dioxide (SiO_2);
 - (B) iron (Fe);
 - (C) aluminium oxide (alumina (Al_2O_3)));
 - (iii) 1 or more feedstocks that, when combined, contain all of the following:
 - (A) silicon dioxide (SiO_2); and
 - (B) iron (Fe); and
 - (C) aluminium oxide (alumina (Al_2O_3)));

that are fused together at a temperature above 1000 °C into Portland cement clinker.
- (2) The Portland cement clinker must:
 - (a) have a concentration of calcium silicates equal to or greater than 60%; and
 - (b) have a concentration of magnesium oxide (MgO) equal to or less than 4.5%; and
 - (c) be useable in the making of Portland cement.
- (3) The production of clinker is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

678 Classification of activity

The production of clinker is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

679 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of clinker is 0.0709 MWh per tonne of Portland cement clinker on a dry weight basis that:

- (a) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (b) has a concentration of calcium silicates equal to or greater than 60%; and
- (c) has a concentration of magnesium oxide (MgO) equal to or less than 4.5%; and
- (d) is useable in the making of Portland cement; and
- (e) is of saleable quality.

Note *Saleable quality* is defined in regulation 22C.

Part 28 Production of lime

Division 1 Production of lime

680 Production of lime

- (1) The production of lime is the physical and chemical transformation, through the calcining process, of calcium and magnesium sources (such as calcium carbonate (CaCO₃) and magnesium carbonate (MgCO₃)) into lime that has a concentration of either or both of calcium oxide (CaO) and magnesium oxide (MgO) equal to or greater than 60%.

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- (2) The production of lime is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

681 Classification of activity

The production of lime is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

682 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of lime is 0.0476 MWh per tonne of lime on a dry weight basis that:

- (a) has a concentration of either or both of calcium oxide (CaO) and magnesium oxide (MgO) equal to or greater than 60%; and
- (b) is not a relevant product for the emissions-intensive trade-exposed activity of integrated iron and steel manufacturing; and
- (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (d) is of saleable quality.

Note 1 **Relevant product** is defined in regulation 22A.

Note 2 **Saleable quality** is defined in regulation 22C.

Part 29 Production of fused alumina

Division 1 Production of fused alumina

683 Production of fused alumina

- (1) The production of fused alumina is the physical transformation of alumina (aluminium oxide (Al_2O_3)) by heating it to its fusion point to produce fused alumina that:
 - (a) has an alpha alumina crystalline structure; and
 - (b) has a concentration of aluminium oxide equal to or greater than 99.0%.
- (2) The production of fused alumina is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

684 Classification of activity

The production of fused alumina is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

685 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of fused alumina is 2.03 MWh per tonne of fused alumina (aluminium oxide (Al_2O_3)) that:

- (a) has an alpha alumina crystalline structure; and
- (b) has a concentration of aluminium oxide equal to or greater than 99.0%; and

- (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (d) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 30 Production of copper

Division 1 Production of copper

686 Production of copper

- (1) The production of copper is either or both of the following:
 - (a) the physical and chemical transformation of concentrated mineralised copper compounds into either or both of the following:
 - (i) copper cathode that has a concentration of copper greater than 99.90%;
 - (ii) copper anode that has a concentration of copper:
 - (A) equal to or greater than 99.00%; and
 - (B) equal to or less than 99.90%;
 - (b) the physical and chemical transformation of copper anode into copper cathode that has a concentration of copper greater than 99.90% where the copper anode:
 - (i) has a concentration of copper:
 - (A) equal to or greater than 99.00%; and
 - (B) equal to or less than 99.90%; and
 - (ii) was not produced as part of the transformation in subparagraph (a) (i).
- (2) For subclause (1), concentrated mineralised copper compounds include:
 - (a) copper sulphide concentrates that have a concentration of copper equal to or greater than 20% on a dry weight basis; and
 - (b) copper electrolyte solution that has a concentration of copper equal to or greater than 35 grams per litre of electrolyte.

- (3) The production of copper is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

687 Classification of activity

The production of copper is a highly emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

688 Electricity baseline for product

- (1) For the production of copper cathode from concentrated mineralised copper compounds, the electricity baseline for calculating the amount of a liable entity's partial exemption is 1.69 MWh per tonne of copper cathode that:
- (a) has a concentration of copper greater than 99.90%; and
 - (b) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (c) is not transformed into copper cathode as part of the transformation mentioned in paragraph 686 (1) (b); and
 - (d) is of saleable quality.
- Note* **Saleable quality** is defined in regulation 22C.
- (2) For the production of copper anode from concentrated mineralised copper compounds, the electricity baseline for calculating the amount of a liable entity's partial exemption is 1.31 MWh per tonne of copper anode that:
- (a) has a concentration of copper:
 - (i) equal to or greater than 99.00%; and
 - (ii) equal to or less than 99.90%; and
 - (b) is produced by carrying on the emissions-intensive trade-exposed activity; and

- (c) is not subsequently transformed into copper cathode as part of the transformation mentioned in subparagraph 686 (1) (a) (i); and
- (d) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

- (3) For the production of copper cathode from copper anode, the electricity baseline for calculating the amount of a liable entity's partial exemption is 0.387 MWh per tonne of copper cathode that:
 - (a) has a concentration of copper equal to or greater than 99.90%; and
 - (b) is produced from copper anode that was not produced as part of the transformation mentioned in subparagraph 686 (1) (a) (i); and
 - (c) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (d) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 31 Production of carbamide (urea)

Division 1 Production of carbamide (urea)

689 Production of carbamide (urea)

- (1) The production of carbamide (urea ($\text{CO}(\text{NH}_2)_2$)) is the chemical transformation of carbon dioxide (CO_2) and anhydrous ammonia (NH_3) to produce carbamide solution (urea ($\text{CO}(\text{NH}_2)_{2(\text{aq})}$)) that:
 - (a) has a concentration of carbamide (urea ($\text{CO}(\text{NH}_2)_2$)) equal to or greater than 80%; and
 - (b) is subsequently used to produce either or both of:
 - (i) carbamide solutions (urea ($\text{CO}(\text{NH}_2)_{2(\text{aq})}$)); and
 - (ii) saleable granulated, prilled or other solid forms of carbamide (urea ($\text{CO}(\text{NH}_2)_{2(\text{s})}$)).

- (2) The production of carbamide (urea) is specified as an emissions-intensive trade-exposed activity.

Division 2 Classification of activity

690 Classification of activity

The production of carbamide (urea) is a moderately emissions-intensive activity.

Division 3 Electricity baseline for calculating partial exemption

691 Electricity baseline for product

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of carbamide (urea) is 0.285 MWh per tonne of 100% equivalent carbamide (urea ($\text{CO}(\text{NH}_2)_2$)) on a dry weight basis that is:

- (a) contained within either of the following products:
 - (i) carbamide solutions (urea ($\text{CO}(\text{NH}_2)_{2(\text{aq})}$));
 - (ii) saleable, granulated, prilled or other solid forms of carbamide (urea ($\text{CO}(\text{NH}_2)_{2(\text{s})}$)); and
- (b) produced by carrying on the emissions-intensive trade exposed activity; and
- (c) of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Part 32 Production of sodium carbonate (soda ash) and sodium bicarbonate

Division 1 Production of sodium carbonate (soda ash) and sodium bicarbonate

692 Production of sodium carbonate (soda ash) and sodium bicarbonate

- (1) The production of sodium carbonate (soda ash) and sodium bicarbonate is the chemical and physical transformation of calcium carbonate (CaCO_3), sodium chloride (salt (NaCl)), ammonia (NH_3) and carbon bearing materials (such as coke) into 1 or more of the following:
 - (a) light sodium carbonate (light soda ash (Na_2CO_3)) which has a concentration of sodium carbonate (soda ash (Na_2CO_3)) equal to or greater than 98.0%;
 - (b) dense sodium carbonate (dense soda ash (Na_2CO_3)) which has a concentration of sodium carbonate (soda ash (Na_2CO_3)) equal to or greater than 97.5%;
 - (c) refined sodium bicarbonate (NaHCO_3) which has a concentration of sodium bicarbonate (NaHCO_3) equal to or greater than 95.0%.
- (2) The production of sodium carbonate (soda ash) and sodium bicarbonate is specified as an emissions-intensive trade exposed activity.

Division 2 Classification of activity

693 Classification of activity

The production of sodium carbonate (soda ash) and sodium bicarbonate is a highly emissions-intensive activity.

Division 3 **Electricity baseline for calculating partial exemption**

694 **Electricity baseline for product**

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of sodium carbonate (soda ash) and sodium bicarbonate is 0.130 MWh per tonne of 1 or more of the following:

- (a) light sodium carbonate (light soda ash (Na_2CO_3)) that:
 - (i) has a concentration of sodium carbonate (soda ash (Na_2CO_3)) equal to or greater than 98.0%; and
 - (ii) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (iii) is of saleable quality;
- (b) dense sodium carbonate (dense soda ash (Na_2CO_3)) that:
 - (i) has a concentration of sodium carbonate (soda ash (Na_2CO_3)) equal to or greater than 97.5%; and
 - (ii) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (iii) is of saleable quality;
- (c) refined sodium bicarbonate (NaHCO_3) that:
 - (i) has a concentration of sodium bicarbonate (NaHCO_3) equal to or greater than 95.0%; and
 - (ii) is produced by carrying on the emissions-intensive trade-exposed activity; and
 - (iii) is of saleable quality.

Note **Saleable quality** is defined in regulation 22C.

Table of Instruments**Notes to the *Renewable Energy (Electricity) Regulations 2001*****Note 1**

The *Renewable Energy (Electricity) Regulations 2001* (in force under the *Renewable Energy (Electricity) Act 2000*) as shown in this compilation comprise Statutory Rules 2001 No. 2 amended as indicated in the Tables below.

The *Renewable Energy (Electricity) Regulations 2001* was amended by the *Renewable Energy (Electricity) Amendment Act 2010* (No. 69, 2010). The amendment has been incorporated in this compilation.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> or FRLI Registration	Date of commencement	Application, saving or transitional provisions
2001 No. 2	6 Feb 2001	6 Feb 2001	
2001 No. 219	23 Aug 2001	23 Aug 2001	R. 4
2002 No. 48	15 Mar 2002	Rr. 1–3 and Schedule 1: 1 Apr 2001 Schedule 2: 1 Jan 2002 Remainder: 15 Mar 2002	—
2002 No. 232	4 Oct 2002	Rr. 1–3 and Schedule 1: 1 July 2002 Remainder: 4 Oct 2002	—
2002 No. 339	20 Dec 2002	Rr. 1–3 and Schedule 1: 27 Aug 2002 Remainder: 1 Jan 2003	—
2003 No. 96	29 May 2003	29 May 2003	—
2003 No. 315	11 Dec 2003	11 Dec 2003	—
2004 No. 322	25 Nov 2004	25 Nov 2004	—
2005 No. 5	14 Feb 2005 (see F2005L00222)	15 Feb 2005	—
2005 No. 72	29 Apr 2005 (see F2005L00954)	Rr. 1–3 and Schedule 1: 25 Nov 2004 Remainder: 30 Apr 2005	—

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Year and number	Date of notification in <i>Gazette</i> or FRLI Registration	Date of commencement	Application, saving or transitional provisions
2005 No. 255	11 Nov 2005 (see F2005L03467)	14 Nov 2005	—
2005 No. 256	14 Nov 2005 (see F2005L03271)	15 Nov 2005	—
2005 No. 310	19 Dec 2005 (see F2005L04003)	20 Dec 2005	—
2006 No. 120	7 June 2006 (see F2006L01653)	8 June 2006	—
2006 No. 248	21 Sept 2006 (see F2006L03049)	21 Sept 2006	—
2006 No. 344	15 Dec 2006 (see F2006L03994)	16 Dec 2006	—
2006 No. 345	15 Dec 2006 (see F2006L03960)	16 Dec 2006	—
2007 No. 218	24 July 2007 (see F2007L02204)	25 July 2007	—
2007 No. 308	27 Sept 2007 (see F2007L03761)	28 Sept 2007	—
2007 No. 336	5 Oct 2007 (see F2007L03953)	Rr. 1–3 and Schedule 1: 6 Oct 2007 Schedule 2: 5 Nov 2007 (see r. 2 (b))	—
2008 No. 263	18 Dec 2008 (see F2008L04657)	19 Dec 2008	—
2009 No. 131	25 June 2009 (see F2009L02502)	1 July 2009 (see r. 2 and F2009L02489)	—
2009 No. 221	8 Sept 2009 (see F2009L03474)	9 Sept 2009	—
2009 No. 222	8 Sept 2009 (see F2009L03475)	9 Sept 2009	R. 4
2009 No. 379	16 Dec 2009 (see F2009L04571)	17 Dec 2009	—
2010 No. 46	12 Mar 2010 (see F2010L00654)	13 Mar 2010	—
2010 No. 52	26 Mar 2010 (see F2010L00713)	27 Mar 2010	—
2010 No. 142	18 June 2010 (see F2010L01597)	21 June 2010	R. 4
2010 No. 204	9 July 2010 (see F2010L01954)	10 July 2010	—
2010 No. 239	30 Sept 2010 (see F2010L02544)	1 Oct 2010	R. 4

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Year and number	Date of notification in <i>Gazette</i> or FRLI Registration	Date of commencement	Application, saving or transitional provisions
2010 No. 246	15 Oct 2010 (see F2010L02641)	16 Oct 2010	—
2010 No. 256	29 Oct 2010 (see F2010L02806)	30 Oct 2010	—
2010 No. 320	13 Dec 2010 (see F2010L03206)	Rr. 1–3, 5 (1), 5 (4) and Schedule 1: 14 Dec 2010 Rr. 4, 5 (2), 5 (3) and Schedule 2: 1 Jan 2011	R. 5
2010 No. 321	13 Dec 2010 (see F2010L03159)	1 Jan 2011 (see r. 2)	—
2011 No. 11	1 Mar 2011 (see F2011L00332)	2 Mar 2011	—
2011 No. 88	21 June 2011 (see F2011L01090)	1 July 2011	—
2011 No. 116	30 June 2011 (see F2011L01381)	1 July 2011	R. 4
2011 No. 177	5 Oct 2011 (see F2011L02025)	6 Oct 2011	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
R. 3	am. 2001 No. 219; 2002 Nos. 48, 232 and 339; 2003 Nos. 96 and 315; 2004 No. 322; 2005 Nos. 255 and 256; 2006 Nos. 248 and 345; 2007 No. 336; 2010 Nos. 239 and 320
R. 3A.....	ad. 2006 No. 345 am. 2010 No. 320
R. 3B.....	ad. 2007 No. 336
Part 2	
Division 2.1	
R. 4	am. 2007 No. 336
Note to r. 5	ad. 2007 No. 336
Division 2.2	
R. 6	rs. 2007 No. 336
R. 7	am. 2001 No. 219 rs. 2007 No. 336
R. 8	rs. 2007 No. 336
R. 9	rs. 2005 No. 255; 2007 No. 336
R. 11	rep. 2001 No. 219
R. 12	rep. 2007 No. 336
Division 2.3	
Subdivision 2.3.1	
Heading to Subdiv. 2.3.1.....	rs. 2007 No. 336
R. 13	am. 2007 No. 336
R. 14	am. 2001 No. 219 rs. 2007 No. 336 am. 2009 No. 131
R. 15	rs. 2007 No. 336
R. 15A.....	ad. 2007 No. 336
R. 17	rep. 2007 No. 336
R. 18	rs. 2007 No. 336
Subdivision 2.3.2	
R. 19	am. 2001 No. 219; 2002 Nos. 48 and 232; 2003 No. 96 rs. 2005 No. 256 am. 2006 No. 345 rs. 2007 No. 336

Table of Amendments

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Provision affected	How affected
R. 19A.....	ad. 2007 No. 336 am. 2009 No. 222 rs. 2010 No. 320
R. 19B.....	ad. 2007 No. 336 rs. 2010 No. 320
R. 19BA	ad. 2010 No. 320
R. 19BB	ad. 2010 No. 320
R. 19BC	ad. 2010 No. 320
R. 19BD	ad. 2010 No. 320
R. 19C.....	ad. 2007 No. 336 am. 2010 No. 320
Subdivision 2.3.3	
R. 19D.....	ad. 2007 No. 336 am. 2010 No. 142
R. 19E.....	ad. 2010 No. 320
R. 19F	ad. 2010 No. 320
R. 19G	ad. 2010 No. 320
Heading to r. 20	rs. 2007 No. 336
R. 20	am. 2002 No. 232; 2004 No. 322; 2005 No. 255; 2007 No. 336; 2009 No. 221; 2010 Nos. 142 and 204; 2011 No. 88
Note to r. 20 (1).....	ad. 2002 No. 232
R. 20AA	ad. 2009 No. 221 am. 2010 Nos. 204 and 320; 2011 No. 88
R. 20AB	ad. 2009 No. 221
R. 20AC	ad. 2010 No. 142 am. 2010 Nos. 239 and 320
R. 20A.....	ad. 2007 No. 336
R. 20B.....	ad. 2007 No. 336
R. 20BA	ad. 2010 No. 142
Division 2.4	
Div. 2.4 of Part 2	ad. 2007 No. 336
R. 20C.....	ad. 2007 No. 336
Division 2.5	
Div. 2.5 of Part 2	ad. 2007 No. 336
R. 20DA	ad. 2009 No. 379
R. 20D.....	ad. 2007 No. 336
Division 2.6	
Div. 2.6 of Part 2	ad. 2007 No. 336
R. 20E.....	ad. 2007 No. 336
R. 20F	ad. 2007 No. 336

Table of Amendments

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Provision affected	How affected
Part 2A	
R. 20G	ad. 2010 No. 320
R. 20H.....	ad. 2010 No. 320
R. 20I	ad. 2010 No. 320
R. 20J	ad. 2010 No. 320
R. 20K.....	ad. 2010 No. 320
R. 20L	ad. 2010 No. 320
R. 20M	ad. 2010 No. 320
R. 20N.....	ad. 2010 No. 320
R. 20O	ad. 2010 No. 320
R. 20P.....	ad. 2010 No. 320
Part 3	
R. 21	rs. 2007 No. 336 am. 2009 No. 131
R. 21A.....	ad. 2006 No. 248
Part 3A	
Part 3A.....	ad. 2010 No. 46
Division 1	
R. 22A.....	ad. 2010 No. 46 am. 2010 Nos. 246 and 320; 2011 No. 11
R. 22B.....	ad. 2010 No. 46
R. 22C.....	ad. 2010 No. 46
Division 2	
R. 22D.....	ad. 2010 No. 46
Note 2 to r. 22D.....	am. 2010 No. 204
Division 3	
R. 22E	ad. 2010 No. 46
Division 4	
Subdivision A	
R. 22F	ad. 2010 No. 46
R. 22G	ad. 2010 No. 46
R. 22H.....	ad. 2010 No. 46
R. 22I	ad. 2010 No. 46
R. 22J	ad. 2010 No. 46 am. 2010 No. 320
R. 22K.....	ad. 2010 No. 46
R. 22L	ad. 2010 No. 46
R. 22M	ad. 2010 No. 46

Table of Amendments

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Provision affected	How affected
Subdivision B	
R. 22N.....	ad. 2010 No. 46
R. 22O	ad. 2010 No. 46 am. 2010 No. 320
R. 22P	ad. 2010 No. 46
R. 22Q	ad. 2010 No. 46
R. 22R.....	ad. 2010 No. 46
R. 22S.....	ad. 2010 No. 46
R. 22T	ad. 2010 No. 46
R. 22U.....	ad. 2010 No. 46
Subdivision BA	
R. 22UA	ad. 2010 No. 320
R. 22UB	ad. 2010 No. 320
R. 22UC	ad. 2010 No. 320
Subdivision C	
R. 22V	ad. 2010 No. 46
R. 22W	ad. 2010 No. 46 am. 2010 No. 239
R. 22X.....	ad. 2010 No. 46 am. 2010 No. 239
R. 22Y.....	ad. 2010 No. 46
Division 5	
Subdivision A	
R. 22Z	ad. 2010 No. 46 am. 2010 No. 320
Subdivision B	
R. 22ZA.....	ad. 2010 No. 46 am. Act No. 69, 2010; 2010 No. 320; 2011 No. 116
Note to r. 22ZA (2)	ad. 2011 No. 11
Subdivision C	
R. 22ZB.....	ad. 2010 No. 46 am. 2010 No. 246
R. 22ZC	ad. 2010 No. 46
R. 22ZD	ad. 2010 No. 46
Subdivision D	
R. 22ZE.....	ad. 2010 No. 46
Subdivision E	
R. 22ZF.....	ad. 2010 No. 46
R. 22ZG	ad. 2010 No. 46

Table of Amendments

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Provision affected	How affected
Subdivision F	
R. 22ZH	ad. 2010 No. 46 am. 2010 No. 320
Division 6	
R. 22ZI	ad. 2010 No. 46
R. 22ZJ	ad. 2010 No. 46
Division 7	
R. 22ZK.....	ad. 2010 No. 46
Heading to r. 22ZL	rs. 2010 No. 320
R. 22ZL	ad. 2010 No. 46 am. 2010 No. 320
R. 22ZM.....	ad. 2010 No. 46 rep. 2010 No. 320
Division 8	
Subdivision A	
R. 22ZN	ad. 2010 No. 46
Subdivision B	
R. 22ZO	ad. 2010 No. 46
R. 22ZP.....	ad. 2010 No. 46
R. 22ZQ	ad. 2010 No. 46
R. 22ZR	ad. 2010 No. 46
R. 22ZS.....	ad. 2010 No. 46
Division 8A	
Div. 8A of Part 3A	ad. 2010 No. 239
R. 22ZSA	ad. 2010 No. 239
Division 9	
R. 22ZT.....	ad. 2010 No. 46
Part 4	
Heading to Part 4.....	rs. 2007 No. 336
R. 23A.....	ad. 2010 No. 320
R. 23B.....	ad. 2010 No. 320
R. 23C.....	ad. 2010 No. 320
R. 23D.....	ad. 2010 No. 320
R. 23E.....	ad. 2010 No. 320
Division 1	
Heading to Div 1 of Part 4	ad. 2010 No. 321
R. 23	am. 2002 Nos. 48 and 339; 2003 No. 315; 2005 Nos. 5 and 310; 2006 No. 344; 2007 No. 308; 2008 No. 263; 2010 Nos. 52 and 321

Table of Amendments

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Provision affected	How affected
Division 2	
Heading to Div 2 of Part 4	ad. 2010 No. 321
R. 23A.....	ad. 2010 No. 321
Part 5	
R. 24.....	am. 2007 No. 336 am. 2009 No. 131 rs. 2010 No. 320
R. 24A.....	ad. 2010 No. 320
R. 24B.....	ad. 2010 No. 320
R. 25.....	am. 2007 No. 336 am. 2009 No. 131 rs. 2010 No. 320
R. 25A.....	ad. 2010 No. 320
Part 6	
R. 28.....	am. 2001 No. 219; 2007 No. 336; 2010 No. 320; 2011 No. 177
R. 29.....	rep. 2007 No. 336
Part 7	
Part 7.....	ad. 2010 No. 320
Division 1	
R. 29.....	ad. 2010 No. 320
R. 30.....	ad. 2010 No. 320
R. 31.....	ad. 2010 No. 320
R. 32.....	ad. 2010 No. 320
Division 2	
R. 33.....	ad. 2010 No. 320
R. 34.....	ad. 2010 No. 320
R. 35.....	ad. 2010 No. 320
R. 36.....	ad. 2010 No. 320
Division 3	
R. 37.....	ad. 2010 No. 320
R. 38.....	ad. 2010 No. 320
R. 39.....	ad. 2010 No. 320
R. 40.....	ad. 2010 No. 320
R. 41.....	ad. 2010 No. 320
Division 4	
R. 42.....	ad. 2010 No. 320
R. 43.....	ad. 2010 No. 320
R. 44.....	ad. 2010 No. 320

Table of Amendments

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Provision affected	How affected
R. 45	ad. 2010 No. 320
R. 46	ad. 2010 No. 320
R. 47	ad. 2010 No. 320
R. 48	ad. 2010 No. 320
Part 8	
R. 49	ad. 2010 No. 320
Schedule 1	
Heading to Schedule 1.....	rs. 2007 No. 336
Schedule 1	am. 2001 No. 219; 2007 No. 336
Schedule 2	rep. 2007 No. 336
Schedule 3	
Heading to Schedule 3.....	rs. 2007 No. 336
Schedule 3	am. 2001 No. 219; 2007 No. 336
Schedule 4	
Heading to Schedule 4.....	rs. 2010 No. 320
Schedule 4	rep. 2004 No. 322 ad. 2007 No. 336 am. 2010 No. 320
Schedule 5	
Heading to Schedule 5.....	rs. 2007 No. 336
Schedule 5	rs. 2002 No. 232 am. 2007 No. 336; 2009 No. 379
Schedule 6	
Schedule 6	rep. 2004 No. 322 ad. 2010 No. 46 am. 2010 Nos. 204, 239, 246 and 256; 2011 No. 11
Schedule 7	
Schedule 7	am. 2001 No. 219; 2002 Nos. 48 and 232; 2003 Nos. 96 and 315; 2004 No. 322; 2005 Nos. 72, 256 and 310; 2006 Nos. 120 and 345; 2007 No. 218 rep. 2007 No. 336

Table A Application, saving or transitional provisions**Statutory Rules 2001 No. 219****4 Transitional**

Items 14 to 17, 34 and 35 of Part 2 of Schedule 7 of the *Renewable Energy (Electricity) Regulations 2001* as in force immediately before 23 August 2001 continue to apply to solar hot water heaters, mentioned in those items, that were installed before gazettal.

Select Legislative Instrument 2009 No. 222**4 Application**

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

Select Legislative Instrument 2010 No. 142**4 Transitional**

- (1) The amendments made by Schedule 1 apply to a small generation unit that is a solar (photovoltaic) system installed on or after 20 August 2010.
 - (2) The amendments made by Schedule 1 apply to a small generation unit, other than a solar (photovoltaic) system, installed on or after 20 December 2010.
-

Table A

Select Legislative Instrument 2010 No. 239

4 Transitional

- (1) The amendments made by items [2] to [4] of Schedule 1 apply to a small generation unit that is a solar (photovoltaic) system installed after 31 October 2010.
- (2) The amendments made by items [2] to [4] of Schedule 1 apply to a small generation unit, other than a solar (photovoltaic) system, installed after 19 December 2010.

Select Legislative Instrument 2010 No. 320

5 Transitional

- (1) The amendments made by items [6] and [7] of Schedule 1 apply to a transitional solar water heater on and from 31 December 2011.
- (2) Despite the amendment made by item [3] of Schedule 2, regulations 24 and 25 of the *Renewable Energy (Electricity) Regulations 2001*, as in force immediately before the commencement of this subregulation, continue to apply to liabilities incurred for 2010 and earlier years.
- (3) Despite the amendment made by item [4] of Schedule 2, subregulation 28 (4) of the *Renewable Energy (Electricity) Regulations 2001*, as in force immediately before the commencement of this subregulation, continues to apply to liabilities incurred for 2010 and earlier years
- (4) In this regulation:
transitional solar water heater means a solar water heater included in the Register of solar water heaters on the day this subregulation commences.

Select Legislative Instrument 2011 No. 116**4 Transitional**

- (1) The amendments made by items [1] to [5] of Schedule 1 to the *Renewable Energy (Electricity) Amendment Regulations 2011* (No. 2) do not apply to the creation of a certificate for a small generation unit installed on or after 1 July 2011 and before 30 June 2012 if:
- (a) the unit was installed under a contract entered into before 5 May 2011; and
 - (b) the parties to the contract were legally bound to proceed with the contract on and after 5 May 2011; and
 - (c) if the contract was conditional on any event happening, the event happened before 5 May 2011; and
 - (d) the person who became the owner of the unit following its installation was a party to the contract; and
 - (e) the contract documentation identifies:
 - (i) the date the contract was entered into; and
 - (ii) the identity of each party to the contract; and
 - (iii) the address at which the unit was installed; and
 - (iv) the size, make and model of the unit; and
 - (f) the person entitled to create certificates for the unit (the **entitled person**) meets the requirements of subregulation (2) before creating certificates for the unit.
- (2) For paragraph (1) (f), the entitled person must:
- (a) possess contract documentation identifying the matters mentioned in paragraph (1) (e); and
 - (b) provide to the Regulator a statutory declaration made by the entitled person:
 - (i) describing the contract documentation; and
 - (ii) stating that the entitled person can provide the contract documentation to the Regulator if requested by the Regulator; and

Table A

-
- (iii) stating that the contract meets the requirements of paragraphs (1) (a) to (d); and
 - (iv) stating:
 - (A) the date on which the contract was entered into; and
 - (B) the identity of each party to the contract; and
 - (C) the address at which the unit was installed; and
 - (D) the size, make and model of the unit; and
 - (v) stating that the contract documentation in the entitled person's possession identifies the matters mentioned in subparagraph (iv); and
 - (c) if the contract is an oral contract — provide to the Regulator a statutory declaration made by each party to the contract stating:
 - (i) the date on which the contract was entered into; and
 - (ii) the identity of each party to the contract; and
 - (iii) the address at which the unit was installed; and
 - (iv) the size, make and model of the unit; and
 - (d) provide to the Regulator any other information or documents requested by the Regulator.
- (3) An entitled person may provide one statutory declaration under paragraph (2) (b) setting out the information required by that paragraph for more than one unit, including where:
 - (a) the units were installed under different contracts; or
 - (b) the contracts for the installations of the units involve different parties; or
 - (c) the units were installed at different addresses.
 - (4) However a statutory declaration provided under paragraph (2) (c) must relate to one unit only.
 - (5) For paragraph (2) (c), if the entitled person is a party to the contract, he or she only needs to provide statutory declarations from the other parties to the contract.

Table A

(6) In this regulation:

contract documentation means:

- (a) for a written contract — the written documents setting out the terms and conditions of the contract and evidencing the offer and acceptance of those terms and conditions; and
 - (b) for an oral contract — means written documentation that was created and dated before 10 June 2011, evidencing the existence of the contract.
-