

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 36

Issued by authority of the Minister for Climate Change and Energy Efficiency

Renewable Energy (Electricity) Act 2000

Renewable Energy (Electricity) Amendment Regulation 2013 (No. 2)

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

The Act, as established, provides the framework for the implementation of the Government's Mandatory Renewable Energy Target (MRET) announced in 1997. The MRET established a supply and demand for Renewable Energy Certificates (RECs) and a REC market. The objective of the Act is to encourage the additional generation of electricity from renewable sources.

On 9 September 2009, the Act was amended and MRET became known as the Renewable Energy Target (RET) with an expanded target. On 29 June 2010 the Act was amended further, so that from 1 January 2011, the RET split into the large-scale renewable energy target (LRET) and small-scale renewable energy scheme (SRES), to further strengthen the Government's commitment of additional generation of electricity from renewable sources by 2020.

Under the Act, wholesale purchasers of electricity (the 'liable entities') are required to meet a share of LRET in proportion to their share of the national wholesale electricity market and meet a share of SRES in proportion to their support of the small-scale technology industry. The Act provides for the creation of large-scale generation certificates (LGCs) from accredited renewable energy power stations and the creation of small-scale technology certificates (STCs) from eligible solar water heaters and small generation unit installations.

The purpose of the Regulation is to amend the Principal Regulations to specify the LRET Renewable Power Percentage (RPP) for 2013 and specify the SRES Small-scale Technology Percentage (STP) for 2013.

The Regulation specifies the RPP for 2013, which when used in a set formula calculates the number of LGCs that liable entities have to surrender to the Renewable Energy Regulator to avoid a charge. The RPP for 2013 is 10.65 per cent, increasing from 9.15 per cent in 2012.

Subsection 39(1) of the Act provides that the RPP for a given year must be specified in the regulations on or before 31 March in that year. However, subsection 39(3) of the Act provides that, before the Governor-General makes a regulation under subsection 39(1) of the Act, the Minister must take into consideration the:

- required amount of renewable electricity for the year;
- estimated amount of electricity that will be acquired for the year;
- amount by which the required GWh of renewable source electricity for previous years has exceeded, or has been exceeded by, the amount of renewable electricity required under the scheme in those years; and
- estimated amount of all partial exemptions expected to be claimed for the year; and

- any amounts where the previous years estimates exceeded, or was exceeded by, for the year.

The Regulation also specifies the STP for 2013, which when used in a set formula calculates the number of STCs that liable entities have to surrender quarterly to the Renewable Energy Regulator to avoid a charge. The STP for 2013 is 19.70 per cent, decreasing from 23.96 per cent in 2012.

Subsection 40A (1) of the Act provides that the STP for a given year must be specified in the regulations on or before 31 March in that year. However, subsection 40A(3) of the Act provides that, before the Governor-General makes a regulation under subsection 40A(1) of the Act, the Minister must take into consideration the:

- estimated value, in megawatt hours, of small-scale technology certificates that will be created for the year;
- estimated amount of electricity that will be acquired for the year; and
- estimated amount of all partial exemptions expected to be claimed for the year.

The Regulation allows the:

- 2013 RPP of 10.65 per cent to be set under Regulation 23. Regulation 23 to the Principal Regulations is amended every twelve months and the amendments are machinery in nature and do not substantially alter the existing operation of the Principal Regulations; and
- 2013 STP of 19.70 per cent to be set under Regulation 23A. Regulation 23A to the Principal Regulations is amended as required under the Act and the amendments are machinery in nature and do not substantially alter the existing operation of the Principal Regulations.

Consequently a public consultation period was not conducted for the Amendment Regulation.

The Regulation will be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation will be compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights was completed (Attachment A).

The Regulation commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

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

Renewable Energy (Electricity) Amendment Regulation 2013 (No. 2)

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

Overview of the Legislative Instrument

The amendment to the *Renewable Energy (Electricity) Regulations 2001* (the Regulations) is required to set the Renewable Power Percentage (RPP) and the Small-scale Technology Percentage (STP) for 2013. The 2013 RPP is 10.65 per cent which has increased from 9.15 per cent for 2012. The 2013 STP will be set at 19.70 per cent which has decreased from 23.96 per cent for 2012.

The RPP sets the rate of liability for the given compliance year under the Large-scale Renewable Energy Target (LRET). The STP sets the rate of liability for the given compliance year under the Small-scale Renewable Energy Scheme (SRES). The Regulation prescribing the RPP and STP must be made on or before 31 March.

The setting of the RPP and STP is considered minor and machinery as the percentages are an administrative requirement under section 39 and section 40A of the *Renewable Energy (Electricity) Act 2000* (the Act), respectively, to achieve the objectives of the Act which is to increase Australia's renewable energy by setting targets. The Act requires entities that make relevant acquisitions of electricity to purchase certificates from accredited renewable energy power stations under the Act and entities, individuals or companies, that create valid certificates from small unit installations, including solar water heaters and small photovoltaic (solar), wind and hydro systems.

Human rights implications

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

Conclusion

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

Minister