

EXPLANATORY STATEMENT

Minute No. of 2016 - Minister for the Environment
Issued by authority of the Minister for the Environment

Renewable Energy (Electricity) Act 2000

Renewable Energy (Electricity) Amendment (Percentages) Regulation 2016

The *Renewable Energy (Electricity) Act 2000* (the Act), as established, provides the framework for the implementation of the Government's Mandatory Renewable Energy Target (MRET) announced in 1997. An objective of the Act is to encourage the additional generation of electricity from renewable sources.

Section 161 of 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 has been amended several times. From 1 January 2011 the RET split into the large-scale renewable energy target (LRET) and small-scale renewable energy scheme (SRES). Both schemes establish a certificate market in their own right.

Under the Act, wholesale purchasers of electricity (the 'liable entities') are required to meet a share of the LRET and SRES in proportion to their share of the national wholesale electricity market. 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 Renewable Energy (Electricity) Regulations 2001 (the Principal Regulations) to specify the LRET Renewable Power Percentage (RPP) for 2016 and to prescribe the SRES Small-scale Technology Percentage (STP) for 2016.

The Regulation specifies the RPP for 2016, which when used in a set formula calculates the number of LGCs that liable entities have to surrender to the Clean Energy Regulator to avoid a shortfall charge. The RPP for 2016 is 12.75 per cent, increasing from 11.11 per cent in 2015. The RPP has increased in line with legislated LRET targets.

In 2015, the exemption rate for Emissions Intensive Trade Exposed entities increased from a partial to full exemption, which resulted in fewer LGCs being surrendered in 2015 than had been estimated at the time the RPP for 2015 was set. Due to this, and the fact that fewer LGCs will be surrendered in subsequent years, the RPP has been increased.

Subsection 39(1) of the Act provides that the RPP for a given year is the percentage specified in the regulations on or before 31 March in that year. The Minister must take into consideration several items under subsection 39(3) of the Act before the Governor General makes the regulation under subsection 39(1).

The Regulation also prescribes the STP for 2016, which when used in a set formula calculates the number of STCs that liable entities have to surrender quarterly to the Clean Energy Regulator to avoid a shortfall charge. The STP for 2016 is 9.68 per cent, decreasing from 11.71 per cent in 2015. The STP has decreased because of an estimated decline in residential uptake of small scale installations in the SRES scheme and lower numbers of surplus STCs from previous years.

Subsection 40A(1) of the Act provides that the STP for a given year is the percentage prescribed in the regulations on or before 31 March in that year. The Minister must take into consideration several items under subsection 40A(3) of the Act before the Governor General makes the regulation under subsection 40A(1).

The Regulation allows the:

- 2016 RPP of 12.75 per cent to be set under Regulation 23. Regulation 23 to the Principal Regulations is amended every twelve months. The amendments are machinery in nature and do not substantially alter the existing legislative arrangements of the Act and the Principal Regulations; and
- 2016 STP of 9.68 per cent to be set under Regulation 23A. Regulation 23A to the Principal Regulations is amended every twelve months. The amendments are machinery in nature and do not substantially alter the existing legislative arrangements of the Act and Principal Regulations.

Consequently a public consultation period was not conducted for the Regulation. The Regulation will be, and will be registered as, a legislative instrument for the purposes of the *Legislation 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 will commence on the day after it is registered on the Federal Register of Legislation.

Authority: Subsections 39(1) and 40A(1) of the *Renewable Energy (Electricity) Act 2000*

Minister for the Environment

Statement of Compatibility with Human Rights

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

Renewable Energy (Electricity) Amendment (Percentages) Regulation 2016

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 2016. The 2016 RPP is 12.75 per cent which has increased from 11.11 per cent for 2015. The 2016 STP will be set at 9.68 per cent which has decreased from 11.71 per cent for 2015.

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. The Act also requires entities that make relevant acquisitions of electricity to purchase certificates from 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 for the Environment