EXPLANATORY STATEMENT

Authorised by the Clean Energy Regulator

Renewable Energy (Electricity) Regulations 2001

Renewable Energy (Electricity) (Zone Ratings and Zones for Solar (Photovoltaic) Systems) Instrument 2019

Introduction

The *Renewable Energy (Electricity) Regulations 2001* ("the REE Regulations") facilitate the objectives of the Renewable Energy Target ("RET") scheme.

This instrument is made under subregulation 20(4) of the REE Regulations, which provides that the Clean Energy Regulator ("the Regulator") may prescribe zone ratings and zones for solar (photovoltaic) system for the purposes of paragraph 20(1)(b) of the REE Regulations. The REE Regulations specify no conditions that need to be satisfied before the power to make the instrument may be exercised.

Purpose and operation of the instrument

Under the RET, small-scale technology certificates can be created for eligible small-scale renewable energy systems, including solar photovoltaic (PV) panels. The number of certificates that a solar PV system is entitled to create is calculated, in part, using postcode groups (referred to as "solar zones") — these are used as a proxy to estimate the amount of solar radiation in a particular region. This instrument sets out the zone ratings and zones for solar PV systems.

Postcodes, upon which solar zones are grouped, may change due to building developments, changes in electoral boundaries, or changes in population density. Accordingly, solar zones may need to be updated to reflect revised postcode boundaries and correct anomalies (e.g., one zone encircled by another).

This instrument has been updated to align with Public Sector Mapping Agency (PSMA) Australia postcode data. Where PSMA data is not available, postcode data will align with postcode areas published by the Australian Bureau of Statistics. Subsequent instruments may amend or add zones and ratings.

Less than 10 per cent of total solar zones will be affected by changes to this instrument. Of the number affected, a vast majority (91 per cent) will be eligible for more certificates and a small number (9 per cent) will be eligible for fewer certificates.

This instrument revokes the *Renewable Energy (Electricity) (Zone Ratings and Zones for Solar (Photovoltaic) Systems) Instrument 2018* (F2018L00588), which was made by the Regulator on 1 May 2018.

Documents incorporated by reference

This instrument does not incorporate any documents by reference.

Consultation

The Clean Energy Regulator released an exposure draft of this instrument for public comment from 18 June to 18 July 2019. As part of this consultation, the Clean Energy Regulator provided maps showing changes to the zones for solar PV systems and a summary of postcodes affected by the changes.

In addition to public consultation, the Regulator briefed key industry bodies (i.e. the Clean Energy Council and Smart Energy Council) to outline the rationale, impacts, and timeframes of changes to solar zones. Further, through a targeted email campaign, installers and agents participating in the small-scale renewable energy scheme were informed of the proposed changes and invited to provide feedback.

In response to consultation, one submission was received from the Clean Energy Council which supported the proposed changes provided zone ratings are based on the date of installation and not the date of certificate creation. This feedback has been factored into the drafting of this instrument.

Regulatory impact assessment

The Office of Best Practice Regulation ("OBPR") has agreed this amendment will have no more than a minor regulatory impact on affected businesses. Accordingly, OBPR has advised a Regulatory Impact Statement is not required (OBPR ID: 25667).

ATTACHMENT A

Details of the *Renewable Energy (Electricity) (Zone Ratings and Zones for Solar (Photovoltaic) Systems) Instrument 2019*

1. Name of Instrument

Section 1 provides that the title of the Instrument is the *Renewable Energy (Electricity) (Zone Ratings and Zones for Solar (Photovoltaic) Systems) Instrument 2019*.

2. Commencement

Section 2 provides that the Instrument commences on 1 January 2020.

3. Authority

Section 3 provides that the Instrument is made under subregulation 20(4) of the *Renewable Energy (Electricity) Regulations 2001*.

4. Revocation

Section 4 provides that this Instrument revokes the previous instrument which was made by the Regulator on 1 May 2018. However, transitional arrangements set out in Section 7 continue to apply the zone ratings applicable under the previous instrument in some zones for systems installed prior to the commencement of this Instrument.

5. Zone ratings

Section 5 sets out the zone ratings for solar (photovoltaic) systems depending on where they are installed.

6. Zones

Section 6 sets out the zones for postcodes where solar (photovoltaic) systems are installed.

7. Transitional arrangements

Section 7 sets out transitional arrangements which clarify the effect of this Instrument.

The transitional arrangements ensure there is no potential for any person to be disadvantaged by retrospective application of the Instrument.

Paragraph 20(1)(b) of the REE Regulations provides that the number of certificates that may be created under section 23B of the *Renewable Energy (Electricity) Act 2000* is the amount calculated by multiplying the zone rating of the system (worked out in accordance with the instrument made under subregulation 20(4) as existing from time to time) by the rated power output of the system measured in kilowatts-peak.

Subregulation 19D(2) provides that certificates may be created for a small generation unit within 12 months of installation. Therefore, depending on the date of creation of the certificates, there may be the potential for

some persons to be disadvantaged. This may occur if a person installs a small generation unit prior to the commencement of the Instrument but does not create certificates until after commencement of the Instrument. As such, there is the potential for a person to be disadvantaged where the system becomes eligible for fewer certificates (i.e. that the zone rating has increased) following commencement of this Instrument.

It is not clear whether this would amount to retrospective application for the purposes of subsection 12(2) of the *Legislation Act 2003* but, to ensure there is no risk, transitional arrangements have been drafted in section 7. Where a system has been installed *prior to* the commencement of this Instrument (1 January 2020), the zone ratings used will be those which yield the greater number of certificates, whether these zone ratings apply under the previous Instrument (2018) or new Instrument (2019).

The following applies for systems installed *prior to* 1 January 2020:

Zone rating has	**Apply zone rating from**
Not changed	This Instrument (2019)
Increased (i.e., system eligible for fewer certificates)	Previous Instrument (2018)
Decreased (i.e., system eligible for more certificates)	This Instrument (2019)

If the system was installed *after* the commencement of the instrument, the zone ratings in this Instrument will apply — regardless of whether ratings have changed.

ATTACHMENT B

Statement of Compatibility with Human Rights

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

Renewable Energy (Electricity) (Zone Ratings and Zones for Solar (Photovoltaic) Systems) Instrument 2019

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 instrument

The *Renewable Energy (Electricity) (Zone Ratings and Zones for Solar (Photovoltaic) Systems) Instrument 2019* sets out the zone ratings for solar (photovoltaic) cells, and zones based on postcode groupings.

Human rights implications

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

Conclusion

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