

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry, Energy and Emissions Reduction

Renewable Energy (Electricity) Act 2000

*Renewable Energy (Electricity) Amendment (Exemption Certificate Application Extension)
Regulations 2021*

The *Renewable Energy (Electricity) Amendment (Exemption Certificate Application Extension) Regulations 2021* (the Regulations) amend the *Renewable Energy (Electricity) Regulations 2001* (the Principal Regulations) to extend the deadline for submitting an application for an exemption under the Renewable Energy Target (RET) in relation to an emissions-intensive trade-exposed (EITE) activity.

The Regulations specify that an application for an EITE exemption in relation to the 2021 calendar year, made by a prescribed person, must be lodged on or before 10 December 2021. The amendment enables a prescribed person that undertakes an EITE activity (as defined in Schedule 6) and has not previously been issued with an EITE exemption certificate for 2021 to apply to the Clean Energy Regulator (the Regulator) for an EITE exemption certificate. The application extension applies only to EITE exemptions for 2021 recognising the difficult operating environment resulting from the COVID-19 pandemic.

Electricity used by businesses undertaking EITE activities is exempt from liability under the RET. An EITE business receives an exemption certificate which it can exchange with its electricity retailer in return for relief from the pass-through of RET costs. In turn, the retailer reduces its liability by surrendering (to the Regulator) the exemption certificates it received from its EITE electricity customers.

The timeframe for applying for an EITE exemption certificate for a calendar year is ordinarily 1 August the previous year to 30 March of the year to which the application relates.

The extension to the application timeframe for the 2021 year to before 10 December 2021 allows the Regulator to consider an application and make a decision on issuing an exemption certificate by the end of the year. This will assist applicants to negotiate the benefit of the exemption with their electricity retailer, and the Regulator to determine the eligible exemption amount, in advance of the timeframe for surrendering certificates to meet 2021 liability in February 2022.

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

The need for the amendment arose after consideration of representations from stakeholders about issues with meeting the application deadline in 2021. Consultation on the details of this proposed amendment was not undertaken, given the minor technical nature of the amendment, and the limited reach of its application. The extension is general in application and not limited to any particular business or EITE activity. Consultation has been

undertaken on previous amendment regulations of significance relating to exemptions under the RET for EITE activities.

The Office of Best Practice Regulation (OBPR) has confirmed a Regulation Impact Statement is not required for the Regulations. The OBPR reference is ID 44675.

Details of the *Renewable Energy (Electricity) Amendment (Exemption Certificate Application Extension) Regulations 2021*

PART 1 – PRELIMINARY

Section 1 – Name of Instrument

This section specifies the name of the Regulations as the *Renewable Energy (Electricity) Amendment (Exemption Certificate Application Extension) Regulations 2021*.

Section 2 – Commencement

This section provides that the Regulations commenced on the day after they were registered on the Federal Register of Legislation.

Section 3 – Authority

This section sets out the provision of the *Renewable Energy (Electricity) Act 2000* under which the Regulations are made. The power to make regulations in section 161 of the Act includes the power to amend or revoke regulations that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Section 4 – Schedules

This item provides that a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

SCHEDULE 1 - Amendments

Item 1 – After Subregulation 22XA(2)

This item inserts a new Subregulation 22XA(2A) to provide that if an EITE application is for the year 2021, a prescribed person may lodge an application for an EITE exemption on or before 10 December 2021. It is similar to Subregulation 22X(1A) of the Principal Regulations.

The application must be lodged by a prescribed person in accordance with regulation 22G, 22H, 22I, 22J or 22K. These are the categories of prescribed persons who may apply for an EITE exemption certificate. This includes persons with a contract for the supply of electricity that is liable under the RET that undertake eligible EITE activities and have not previously lodged an EITE application or been issued an exemption certificate for the year to which the application relates.

Statement of Compatibility with Human Rights

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

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This Regulation 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 Regulation amends the *Renewable Energy (Electricity) Regulations 2001* to extend the deadline for submitting an application for an exemption under the Renewable Energy Target in relation to an emissions-intensive trade-exposed activity. The extension applies for the 2021 calendar year for eligible applicants who may make an application for an EITE exemption certificate on or before 10 December 2021.

Human rights implications

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

Conclusion

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

The Hon Angus Taylor MP

Minister for Industry, Energy and Emissions Reduction