***EXPLANATORY STATEMENT***

*Renewable Energy (Method for Solar Water Heaters) Amendment (Energy Savings) Determination 2021*

This determination is made by the Clean Energy Regulator (the Regulator) under subregulation 19B(1) of the *Renewable Energy (Electricity) Regulations 2001* (the Regulations).

**Legislative provisions**

*The Renewable Energy (Electricity) Act 2000* (the Act) grants a right to create small-scale technology certificates (‘certificates’) in relation to the installation of a solar water heater. Subsection 22(1) of the Act provides that the number of certificates that may be created for a particular installation of a solar water heater is to be determined in accordance with the Regulations. Subsection 22(2) of the Act permits Regulations to be made for the purposes of subsection 22(1) that may, among other things, provide for the Regulator to determine the number of certificates that may be created for a particular installation in accordance with a legislative instrument made by the Regulator.

Regulation 19A of the Regulations provides that the number of certificates that may be created for a particular model of solar water heater in a particular zone and installation period is the number set out in the Register of solar water heaters applicable to the model, zone and period. The Register of solar water heaters is established and kept by the Regulator under regulation 19C of the Regulations.

For the purposes of subsection 22(1) of the Act, subregulation 19B(1) of the Regulations permits the Regulator to determine the method to be used to determine the number of certificates that may be created for a particular model of solar water heater. In making the determination, the Regulator must have regard to the methods set out in the Australian Standards, as in force at the time, listed in Schedule 4 of the Regulations.

Regulation 19BA provides that when an instrument under subregulation 19B(1) of the Regulations is in force, the Regulator must determine the number of certificates that may be created for a solar water heater in each of the zone mentioned in paragraph 19C(3)(b) in accordance with the determination.

Subregulation 19B(2) of the Regulations outlines the determination must provide that the number of certificates that may be created is to be worked out by reference to the difference, over the number of years for the solar water heater in 19BE, between:

1. 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
2. the electrical energy that would be used by an equivalent electric water heater.

Regulation 19BE of the Regulations provides that for the purposes of subregulation 19B(2), for solar water heaters installed on or before 31 December 2021 the deeming period is ten years, and that for installations during the calendar years 2022 to 2030 the deeming period for those installations is according to the below table. The deeming period (column 2 of the table) is reduced by one year each year so that the deeming period for eligible solar water heaters installed in 2030 is one year.

| Period certificates may be created |
| --- |
| Item | Column 1 | Column 2 |
|  | Year solar water heater installed | Number of years |
| 1 | 2022 | 9 |
| 2 | 2023 | 8 |
| 3 | 2024 | 7 |
| 4 | 2025 | 6 |
| 5 | 2026 | 5 |
| 6 | 2027 | 4 |
| 7 | 2028 | 3 |
| 8 | 2029 | 2 |
| 9 | 2030 | 1 |

**Purpose and operation of the instrument**

This purpose of the determination is to amend the modelling set out in the *Renewable Energy (Method for Solar Water Heaters) Determination 2016* (F2017L00028) (the 2016 Determination) to ensure it accounts for the progressive reduction of certificates that may be created for solar water heater (SWH) systems installed from 1 January 2022, as required by regulation 19BE of the Regulations. At current, the 2016 Determination does not make reference to this progressive reduction of certificates over time.

There are two methods set out in Schedule 1 of the 2016 Determination that are used to determine the number of certificates that may be created for a model of SWH, depending on the type and volumetric capacity of the model. There is a method for SWHs with a volumetric capacity up to and including 700 litres (a ‘small SWH’), as well as the method for SWHs with a volumetric capacity of more than 700 litres (a ‘large SWH’).

This Determination repeals one step and substitutes it with two steps in both of the methods. Step 6 in the model for small SWHs is repealed and substituted with Step 6 and 6.A. Step 9 of the model for large SWHs is repealed and substituted with Step 9 and 9.A.

The substituted steps are the same for both methods. The first substituted step provides that the 10-year MWh savings should be rounded down to the nearest lower whole number. The second step provides, if the SWH was installed on or after 1 January 2022, the 10-year MWh savings figure calculated in the previous step will be multiplied by the factor specified in column 2 of the below table and then rounded down to the nearest lower whole number.

|  |
| --- |
| **Reduction factor** |
| **Item** | **Column 1 Year small SWH or ASHP installed** | **Column 2 Factor** |
| 1  | 2022  | 0.9  |
| 2  | 2023  | 0.8  |
| 3  | 2024  | 0.7  |
| 4  | 2025  | 0.6  |
| 5  | 2026  | 0.5  |
| 6  | 2027  | 0.4  |
| 7  | 2028  | 0.3  |
| 8  | 2029  | 0.2  |
| 9  | 2030  | 0.1  |

Once amended the modelling in the determination will align with regulation 19BE of the Regulations, providing clarity for the SWH manufacturing industry.

This determination is made under subregulation 19B(1) of the Regulations, as extended by subsection 33(3) of the *Acts Interpretation Act 1901*. Subsection 33(3) provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

This determination commences on 1 January 2022.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is at Attachment A.

**Regulatory Impact**

The Office of Best Practice Regulation (OBPR) is of the view that the amendment to the determination is unlikely to have a more than minor regulatory impact, and therefore the preparation of a Regulation Impact Statement is not required.

**Consultation on regulation 19BE of the Regulations**

Regulation 19BE was inserted into the Regulations in 2013, following the statutory review of the RET scheme in 2012. To inform the recommendations of the review, including those implemented in the Regulation, the Climate Change Authority (CCA) consulted extensively with a wide range of business and community stakeholders. This included the release of an issues paper which generated almost 8,700 public submissions and a subsequent discussion paper with draft recommendations and stakeholder workshops which resulted in a further 50 submissions. Draft amendments to implement the agreed CCA recommendations were discussed with relevant industry bodies and stakeholders.

**Consultation on the 2016 Determination**

In November 2013 and February 2016, the Regulator provided an exposure draft of the template files to the solar water heater industry to consult on the proposed approach and to resolve any technical issues.

The Regulator targeted consultation to solar water heater manufacturers and technical experts. The Regulator received feedback from eleven stakeholders in the first three-week consultation period in 2013, and from four stakeholders in the second consultation period in 2016. Feedback was received from technical experts, as well as large and small-scale Australian solar water heater manufacturers during both consultation processes.

The industry was broadly supportive of the changes and identified that the proposed template files would reduce administrative burden and streamline their application process. The feedback and proposed changes were reviewed by a technical panel that advises the Regulator and incorporated into the revised template input files.

**Consultation on this Determination**

The deeming period in regulation 19BE was inserted into the Regulations in 2013. The industry was extensively consulted at that time. As such, the industry is aware of the progressive reduction of certificates that may be created for SWH systems installed from 1 January 2022.

The Regulator has made efforts to remind industry of the progressive reduction of certificates that may be created for SWH systems installed from 1 January 2022. For example, on 8 October 2020, the Regulator published information on its website concerning the manner scheme participants can determine the deemed life of their systems, which included the table of deeming provisions in regulation 19BE of the Regulations. Further, on 1 December 2021 the Regulator published a news article on its website to remind scheme participants that the deeming period for SWH systems will begin from 1 January 2022. Via a calculation tool, the Regulator also maintains information on its website about how to calculate the number of small-scale technology certificates that may be created in relation to an installed SWH.

Given the extensive consultation, the availability of information in the public domain, and the fact that the Determination is a machinery change to ensure alignment with well-known and publicised Regulations, it is appropriate to make the instrument without further consultation. Further, as the amendment to the Determination needs to be made before 1 January 2022 for the modelling in the Determination to align with the Regulations, it would not be reasonably practicable to undertake any further consultation on this Determination.

Attachment A

**Statement of Compatibility with Human Rights**

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

***Renewable Energy (Method for Solar Water Heaters) Amendment
(Energy Savings) Determination 2021***

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 *Renewable Energy (Electricity) Act 2000* grants a right to create small-scale technology certificates in relation to the installation of a solar water heater. The right to create certificates vests in the owner of the solar water heater at the time it is installed and may be assigned to another person.

A certificate is ‘currency’ for the purposes of the Small-scale Renewable Energy Scheme and may be traded or used to meet a liability arising under the scheme. In practice, certificates or the right to create certificates, are generally traded to recoup a portion of the cost of purchasing or installing a solar water heater.

The *Renewable Energy (Electricity)**(Method for Solar Water Heaters) Amendment (Energy Savings) Determination 2021* amends the *Renewable Energy (Method for Solar Water Heaters) Determination 2016* (the 2016 Determination) to ensure the modelling accounts for the progressive reduction of certificates that may be created for solar water heater systems installed from 1 January 2022, as required by regulation 19BE of the Renewable Energy (Electricity).

The 2016 Determination sets out a method to be used to determine the number of certificates that may be created for a particular model of solar water heaters. The method in the 2016 Determination seeks to ensure that the number of certificates that may be created reflect the amount of electricity a model of solar water heater displaces.

**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.