

EXPLANATORY STATEMENT

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

National Greenhouse and Energy Reporting Act 2007

*National Greenhouse and Energy Reporting (Measurement) Amendment (2025 Update No. 2)
Determination 2025*

Legislative Authority

Subsection 10(3) of the *National Greenhouse and Energy Reporting Act 2007* provides that the Minister may determine, by legislative instrument, methods, or criteria for methods, by which the amounts of the scope 1 emissions, scope 2 emissions, reduction, removal, offsets, production or consumption are to be measured for the purposes of this Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make a legislative instrument, 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.

Purpose

The purpose of the *National Greenhouse and Energy Reporting (Measurement) Amendment (2025 Update No. 2) Determination 2025* (Amendment Determination) is to amend the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (Measurement Determination) to update the voluntary market-based method for determining scope 2 emissions from the consumption of purchased or acquired electricity (section 7.4).

The primary amendments to the market-based method are to include Renewable Electricity Guarantee of Origin (REGO) certificates as eligible Renewable Energy Certificates (REC) under the National Greenhouse and Energy Reporting (NGER) scheme.

Background

The NGER scheme is Australia's national system for reporting greenhouse gas emissions, energy consumption and energy production by Australian corporations, and is underpinned by the following legislation:

- The *National Greenhouse and Energy Reporting Act 2007* (Act)
- The *National Greenhouse and Energy Reporting Regulations 2008* (Regulations)
- The Measurement Determination

The NGER scheme is a key data source which supports Australia's international and domestic reporting obligations and informs domestic climate and energy policies. Emissions reported under the NGER scheme underpin the operation of the Safeguard Mechanism.

The Regulations define two reportable *scopes* of emissions (defined in Regulations 2.23 and 2.24). Chapters 1 to 5 of the Measurement Determination provide methods for estimating 'scope 1' emissions, which are emissions resulting directly from the activities at a facility controlled by the reporting entity. Chapter 7 of the Measurement Determination provides

methods to estimate ‘scope 2’ emissions, which are indirect emissions of an entity attributable to the consumption of electricity at facilities within the entity’s operational control. These methods include location-based methods (sections 7.2 and 7.3) and the market-based method (section 7.4).

The Amendment Determination updates the market-based method to provide for REGO certificates as eligible RECs under the NGER scheme. REGO certificates can be applied for and registered under the recently commenced Guarantee of Origin (GO) scheme, created by the *Guarantee of Origin (Future Made in Australia) Act 2024*.

Consultation

Exposure draft consultations for the method under section 7.4 were undertaken when the method was initially introduced in 2023 and when it was further refined in 2025.

Consultation on the proposal to include REGO certificates in the voluntary market-based method for determining scope 2 emissions was undertaken between February and April 2025 as part of the NGER forward work program proposals.

The method itself has not been changed, except to allow for it to cover retired REGO certificates. The treatment of other certificates such as Greenpower and LGCs remains largely unchanged.

The Department of Climate Change, Energy, the Environment and Water consulted on the proposed changes to the NGER scheme between February and April 2025 as part of the NGER forward work program proposal. During the initial consultation, 13 submissions were received in relation to the NGER proposal, all supportive of the inclusion of REGO certificates to the NGER scheme.

Further consultation on the proposal to recognise REGO certificates in the voluntary market-based method for determining scope 2 emissions was carried out as part of the consultation on the Future Made in Australia Guarantee of Origin Scheme Rules 2025 that took place in September 2025. Three submissions were received in relation to the NGER proposal. All were supportive of the inclusion of REGO certificates to the NGER scheme.

Details/ Operation

The Amendment Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Amendment Determination are set out in Attachment A.

The Amendment Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

The Amendment Determination is exempt from sunseting under item 42A(a), section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. This is appropriate because the Measurement Determination prescribes the methods for measuring greenhouse gas emissions; which are mostly scientific and industrial processes that do not require regular

review and updating. If those processes require updating due to modernisation or other improvements, amendments to those processes are specific to the method, and would not benefit from the wholesale repeal and remake of the entire instrument.

ATTACHMENT A

Details of the *National Greenhouse and Energy Reporting (Measurement) Amendment (2025 Update No. 2) Determination 2025*

Section 1 – Name

This section provides that the name of the instrument is the *National Greenhouse and Energy Reporting (Measurement) Amendment (2025 Update No. 2) Determination 2025* (Amendment Determination).

Section 2 – Commencement

This section provides for the Amendment Determination to commence on the later of the day after it is registered, or immediately after the commencement of the *Future Made in Australia (Guarantee of Origin) Act 2024*. This commencement provision ensures that the amendments do not come into force until the relevant Guarantee of Origin certification framework has commenced.

Section 3 – Authority

This section provides that the Amendment Determination is made under subsection 10(3) of the *National Greenhouse and Energy Reporting Act 2007*.

Section 4 – Schedules

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

Schedule 1 – Amendments

National Greenhouse and Energy Reporting (Measurement) Determination 2008

Item 1 – Subsection 7.4(1) (definition of *Y*)

1. This item replaces the definition of *Y* in the formula under subsection 7.4(1). This definition provides that value is either:
 - a. the scope 2 emissions measured in CO₂-e tonnes; or
 - b. zero, if more eligible Renewable Energy Certificates are attributed to a facility's estimate of scope 2 emissions under this method than the total required to reach zero emissions.
2. This is a drafting improvement that merges the original provision under s 7.4(6) into the definition of *Y*. Subsection 7.4(6) provided that *Y* is equal to zero, if more eligible Renewable Energy Certificates are attributed to a facility's estimate of scope 2 emissions under this method than the total required to reach zero emissions.

Item 2 – Subsection 7.4(1) (definition of *REC_{surr}*)

3. This item inserts the words 'or retired' after the word 'surrendered' in the definition for *REC_{surr}*. This value represents a number of eligible Renewable Energy Certificates that have relevantly been surrendered or retired.
4. While the term 'surrendered' is relevant to LGCs, the expansion of the method to REGOs requires that the term 'retired' also be included, which is the appropriate term used under the *Future Made in Australia (Guarantee of Origin) Act 2024*. This definition is significant because only REGO certificates that are retired, representing consumed electricity, can be used for the method.

Item 3 – Subsections 7.4(3) to (6)

5. This item repeals and substitutes subsections 7.4(3) through to 7.4(6), with new subsections (3) and (4). There are two main reasons for these amendments.
6. Firstly, these amendments improve the drafting and interpretation of the existing provisions. Necessary defined terms are consolidated and requirements relating to eligible Renewable Energy Certificates are better articulated.
7. For example, the definition of *eligible Renewable Energy Certificate* has been refined to clarify that GreenPower certificates represent the purchase of electricity from an accredited GreenPower Provider.
8. Secondly, these amendments expand the method to include REGO certificates. Eligible Renewable Energy Certificates include retired REGO certificates, other than
 - a. those that are not created in accordance with the *Future Made in Australia (Guarantee of Origin) Act 2024* or an instrument made under it; or
 - b. unable to be retired under section 107 or 108 of that Act.

9. The exceptions provided under new subparagraphs (3)(c)(i) and (ii) ensure that only properly created REGO certificates that are retired can be used for the method. This would prevent the use of REGO certificates that are improperly created or improperly retired under the GO Act and GO subordinate legislation.
10. Furthermore, two new provisions provide that:
 - a. an *eligible Renewable Energy Certificate* cannot include a certificate being retired for the purposes of eligible registered person registering REGO certificates for a registered renewable electricity facility that is an energy storage system— under s 104(6)(b) of the *Future Made in Australia (Guarantee of Origin) Act 2024*; and
 - b. LGCs that are surrendered under the same circumstances (for electricity stored in an energy storage system) are an *ineligible LGC*.
11. The purpose of the amendments relating to energy storage systems is to ensure that a renewable energy certificate that is retired or surrendered for the purposes of creating another REGO certificate – a certificate which can also be retired – is not ‘double-counted’ for the purposes of emissions reporting. This amendment prevents misrepresenting the renewable electricity that is consumed from the operation of the facility [e.g. by over-representing the value *REC_{surr}* under s 7.4(1)].
12. New paragraph (4)(c) requires that evidence be provided to the Regulator for the retirement of a REGO certificate. This evidence is prescribed as the unique identification code recorded on the REGO certificate in the GO Register.

Item 4 – At the end of Chapter 9

13. This item adds an application provision to the Measurement Determination. It ensures that the amended method can be used for NGER Act reporting from 1 July 2025. This is because the Guarantee of Origin scheme commenced part way through the reporting year.

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 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

This instrument amends the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (Measurement Determination) to update the voluntary market-based method for determining scope 2 emissions from the consumption of purchased or acquired electricity (section 7.4).

The amendments to the market-based method are to include Renewable Electricity Guarantee of Origin (REGO) certificates as eligible Renewable Energy Certificates (REC) under the National Greenhouse and Energy Reporting (NGER) scheme. This will provide for an additional REC that facilities can procure to prove consumption of purchased renewable electricity.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms. The amendments only pertain to how reporting entities are able to calculate their greenhouse gas emissions.

Conclusion

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

The Hon. Josh Wilson MP
Assistant Minister for Climate Change and Energy