

2002

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Renewable Energy (Electricity)
Amendment Bill 2002**

No. , 2002

(Environment and Heritage)

**A Bill for an Act to amend the *Renewable Energy
(Electricity) Act 2000*, and for other purposes**

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1 **A Bill for an Act to amend the *Renewable Energy***
2 ***(Electricity) Act 2000, and for other purposes***

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Renewable Energy (Electricity)*
6 *Amendment Act 2002*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, on the day or at the
10 time specified in column 2 of the table.
11

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Schedule 1	A single day to be fixed by Proclamation, subject to subsection (3)	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by the Parliament and assented to. It will not be expanded to
3 deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table is for additional information that is not part
5 of this Act. This information may be included in any published
6 version of this Act.

7 (3) If a provision covered by item 2 of the table does not commence
8 within the period of 6 months beginning on the day on which this
9 Act receives the Royal Assent, it commences on the first day after
10 the end of that period.

11 **3 Schedule(s)**

12 Each Act that is specified in a Schedule to this Act is amended or
13 repealed as set out in the applicable items in the Schedule
14 concerned, and any other item in a Schedule to this Act has effect
15 according to its terms.

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Schedule 1—Amendments

Part 1—Amendments

Administrative Decisions (Judicial Review) Act 1977

1 After paragraph (ga) of Schedule 1

Insert:

(gb) decisions making, or forming part of the process of making, or leading up to the making of, assessments under Division 2 of Part 5 of the *Renewable Energy (Electricity) Act 2000* or decisions disallowing objections to such assessments or decisions amending or refusing to amend such assessments;

Renewable Energy (Electricity) Act 2000

2 Section 3

Omit “qualifying electricity”, substitute “electricity using eligible renewable energy sources”.

3 Subsection 5(1)

Insert:

electronic signature of a person means the person’s unique identification in an electronic form that is approved by the Regulator.

4 Subsection 5(1)

Insert:

eligible renewable energy source has the meaning given by section 17.

5 Subsection 5(1) (definition of *identification code*)

Repeal the definition.

6 Subsection 5(1)

Insert:

1 *interest charge* means the charge payable under section 70.

2 **7 Subsection 5(1) (definition of *monitoring warrant*)**

3 Repeal the definition, substitute:

4 *monitoring warrant* means a warrant issued under section 125.

5 **8 Subsection 5(1)**

6 Insert:

7 *nominated person*, for an accredited power station, means:

- 8 (a) if no approvals have been given under section 30B in relation
9 to the power station—the person who made the application
10 for accreditation; or
11 (b) if one or more approvals have been given under that section
12 in relation to the power station—the last person so approved.

13 **9 Subsection 5(1)**

14 Insert:

15 *occupier*, in relation to premises, includes a person present at the
16 premises who is in apparent control of the premises.

17 **10 Subsection 5(1)**

18 Insert:

19 *penalty charge* means the charge payable under Part 9.

20 **11 Subsection 5(1)**

21 Insert:

22 *premises* includes the following:

- 23 (a) a structure, building or vehicle;
24 (b) a place (whether enclosed or built on or not);
25 (c) a part of a thing referred to in paragraph (a) or (b).

26 **12 Subsection 5(1)**

27 Insert:

1 *registered person* means a person registered under Division 2 of
2 Part 2.

3 **13 Subsection 5(1)**

4 Insert:

5 *register of applications for accredited power stations* has the
6 meaning given by section 141A.

7 **14 Subsection 5(1) (paragraph (b) of the definition of**
8 ***renewable energy shortfall charge related liability*)**

9 Repeal the paragraph, substitute:

- 10 (b) interest charge; or
11 (c) penalty charge.

12 **15 Subsection 5(1) (definition of *senior employee*)**

13 Omit “Regulator”, substitute “Office of the Renewable Energy
14 Regulator”.

15 **16 Subsection 5(1)**

16 Insert:

- 17 *stakeholder*, in relation to an accredited power station, means:
18 (a) a person who operates the power station (whether alone or
19 together with one or more other persons); or
20 (b) a person who owns all, or a part, of the power station
21 (whether alone or together with one or more other persons).

22 **17 Section 8**

23 Omit “renewable energy sources”, substitute “eligible renewable energy
24 sources”.

25 **18 Section 8**

26 After “solar hot water heaters”, insert “or small generation units”.

27 **19 Division 2 of Part 2 (heading)**

28 Repeal the heading, substitute:

1 **Division 2—Registration of persons**

2 **20 Subsection 9(2)**

3 After “section 30”, insert “or 30A”.

4 **21 Subsection 13(1)**

5 Repeal the subsection, substitute:

6 (1) A registered person may apply to the Regulator for accreditation,
7 as an accredited power station, of the components of an electricity
8 generation system that the person considers are a single power
9 station if the person:

10 (a) operates those components (whether alone or together with
11 one or more other persons); or

12 (b) owns all, or a part, of those components (whether alone or
13 together with one or more other persons).

14 **22 Paragraph 13(2)(b)**

15 Omit “parts”, substitute “components”.

16 **23 After paragraph 13(2)(b)**

17 Insert:

18 (baa) specify each other person (if any) who:

19 (i) operates those components (whether alone or together
20 with one or more other persons); or

21 (ii) owns all, or a part, of those components (whether alone
22 or together with one or more other persons); and

23 **24 Subparagraph 13(2)(ba)(i)**

24 Omit “eligible renewable power sources”, substitute “eligible renewable
25 energy sources”.

26 **25 At the end of subsection 13(2)**

27 Add:

28 ; and (f) be accompanied by a statement in writing from each other
29 person (if any) specified under paragraph (baa) indicating
30 that the other person agrees to the making of the application.

1 **26 At the end of subsection 14(1)**

2 Add:

3 Note: A determination under paragraph (a) may be varied: see Division 10.

4 **27 Paragraph 14(2)(a)**

5 Omit “eligible renewable power source”, substitute “eligible renewable
6 energy source”.

7 **28 After subsection 14(2)**

8 Insert:

9 (2A) However, a power station is not eligible for accreditation if the
10 Regulator is satisfied that a previous determination under
11 paragraph (1)(a) should be varied to include the components of the
12 system specified in the application for accreditation.

13 **29 At the end of subsection 14(3)**

14 Add:

15 Note: The 1997 eligible renewable power baseline for a power station may
16 be varied: see Division 12.

17 **30 Subsection 14(4)**

18 Omit “paragraphs (1)(a) and (b), (2)(a) and (b) and (3)(a) and (b)”,
19 substitute “paragraphs (1)(a) and (3)(a)”.

20 **31 At the end of section 15**

21 Add:

22 Note: The accreditation of an accredited power station may be suspended:
23 see Division 11.

24 **32 After section 15**

25 Insert:

26 **15A Nominated person for power station**

27 If the Regulator approves an application, the applicant becomes the
28 nominated person for the accredited power station.

1 Note: The nominated person for the power station is able to create
2 certificates for electricity generated by the power station: see
3 section 18. The nominated person may change: see Division 9.

4 **33 Section 17**

5 Repeal the section, substitute:

6 **17 What is an *eligible renewable energy source*?**

7 (1) The following energy sources are *eligible renewable energy*
8 *sources*:

- 9 (a) hydro;
- 10 (b) wave;
- 11 (c) tide;
- 12 (d) ocean;
- 13 (e) wind;
- 14 (f) solar;
- 15 (g) geothermal-aquifer;
- 16 (h) hot dry rock;
- 17 (i) energy crops;
- 18 (j) wood waste;
- 19 (k) agricultural waste;
- 20 (l) food waste;
- 21 (m) food processing waste;
- 22 (n) waste from processing of agricultural products;
- 23 (o) bagasse;
- 24 (p) black liquor;
- 25 (q) biomass-based components of municipal solid waste;
- 26 (r) landfill gas;
- 27 (s) sewage gas.

28 (2) Despite subsection (1), the following energy sources are not
29 eligible renewable energy sources:

- 30 (a) fossil fuels;
- 31 (b) materials or waste products derived from fossil fuels.

1 *Regulations*

2 (3) For the purposes of this Act, the regulations may provide that an
3 energy source referred to in subsection (1) or (2) has the meaning
4 prescribed by the regulations.

5 (4) For the purposes of this Act, the regulations may make provision
6 for and in relation to limiting the meaning of an energy source
7 referred to in subsection (1).

8 (5) For the purposes of this Act, the regulations may make provision
9 for and in relation to extending the meaning of an energy source
10 referred to in subsection (2).

11 **34 Subsection 18(1)**

12 Repeal the subsection, substitute:

13 (1) The nominated person for an accredited power station may create a
14 certificate for each whole MWh of electricity generated by the
15 power station during a year that is in excess of the power station's
16 1997 eligible renewable power baseline.

17 **35 After subsection 18(1)**

18 Insert:

19 (1A) A certificate may not be created in respect of a whole MWh of
20 electricity generated partly in 1 year and partly in the following
21 year.

22 **36 Subsection 18(2)**

23 Repeal the subsection, substitute:

24 (2) If the amount of electricity generated by an accredited power
25 station during a year that is in excess of the power station's 1997
26 eligible renewable power baseline is less than 1 MWh but greater
27 than or equal to 0.5 MWh, the nominated person for the power
28 station may create 1 certificate in respect of the electricity
29 generated during the year.

30 **37 Subsection 18(4)**

31 Repeal the subsection, substitute:

- 1 (4) Electricity is to be excluded from all calculations under this
2 section:
3 (a) to the extent that the electricity was generated using any
4 energy sources that are not eligible renewable energy
5 sources; or
6 (b) to the extent that the electricity was generated during any
7 period of suspension of the accreditation of the accredited
8 power station under section 30D or 30E.

9 **38 At the end of section 18**

10 Add:

- 11 (5) The nominated person for an accredited power station may not
12 create any certificates during any period of suspension of the
13 person's registration under section 30 or 30A.

14 **39 Section 19**

15 Repeal the section, substitute:

16 **19 When certificates may be created**

17 A certificate may be created at any time after the generation of the
18 final part of the electricity in relation to which it is created
19 (including creation in a year that is later than the year of
20 generation).

21 Note: For offences related to the creation of certificates, see section 24.

22 **40 Subsection 20(1)**

23 Repeal the subsection, substitute:

- 24 (1) The nominated person for an accredited power station must give an
25 electricity generation return for a year to the Regulator on or
26 before:
27 (a) 14 February in the following year; or
28 (b) any later day allowed by the Regulator.

29 **41 Paragraph 20(2)(a)**

30 Omit "person", substitute "power station".

31 **42 Paragraph 20(2)(c)**

1 Repeal the paragraph, substitute:

2 (c) the number of certificates created during the year in respect
3 of the electricity generated by the power station during the
4 year; and

5 (ca) the number of certificates created during the year in respect
6 of any electricity generated by the power station during any
7 previous year; and

8 **43 After section 20**

9 Insert:

10 **20A Amending electricity generation returns**

11 (1) The Regulator may amend an electricity generation return if the
12 nominated person for the accredited power station concerned
13 requests, in writing, an amendment within 12 months of the return
14 being given.

15 (2) The Regulator may also amend an electricity generation return on
16 his or her own initiative if the amendment is made within 4 years
17 of the return being given.

18 (3) If the Regulator refuses to amend an electricity generation return
19 upon a request by a nominated person for an accredited power
20 station, the Regulator must notify the person accordingly.

21 **44 Subsection 21(1)**

22 Omit “non-renewable”.

23 **45 Subsection 21(2)**

24 Omit “non-renewable”.

25 **46 At the end of section 21**

26 Add:

27 (3) The regulations may provide that a solar water heater displaces
28 electricity even where the solar water heater is the first water
29 heater installed at the site of installation.

30 (4) Subsection (3) does not limit subsection (2).

1 **47 At the end of section 22**

2 Add:

3 (2) Regulations made for the purposes of subsection (1) may:

4 (a) empower the Regulator to make written determinations; and

5 (b) require the Regulator to have regard to specified guidelines
6 when making such determinations.

7 (3) Subsection (2) does not limit subsection (1).

8 **48 After section 22**

9 Insert:

10 **22A When certificates may be created**

11 The certificates may only be created within 12 months after the
12 installation of the solar water heater.

13 **49 After section 23**

14 Insert:

15 **23AA Register of Solar Water Heaters**

16 The regulations may make provision for and in relation to the
17 Regulator keeping a Register of Solar Water Heaters.

18 **50 Subsection 23A(1)**

19 Omit “and the small generation unit displaces non-renewable
20 electricity”.

21 **51 Subsection 23A(2)**

22 Repeal the subsection.

23 **52 Paragraph 25(2)(b)**

24 After “signature of the”, insert “registered”.

25 **53 Paragraph 25(2)(c)**

26 After “the date on which the”, insert “final part of the”.

1 **54 After paragraph 25(2)(c)**

2 Insert:

3 (ca) the eligible renewable energy source or sources of that
4 electricity; and

5 **55 Subsection 26(3A)**

6 Repeal the subsection, substitute:

7 (3A) The Regulator must not consider whether a certificate is eligible
8 for registration unless the Regulator has been paid the fee (if any)
9 prescribed by the regulations for such a consideration.

10 **56 Subsection 29(1)**

11 After “section 44”, insert “or 95”.

12 **57 After section 30**

13 Insert:

14 **30A Suspension of registration—other grounds**

15 *Regulator’s belief that offence committed*

- 16 (1) The Regulator may, by written notice, suspend the registration of a
17 registered person if the Regulator believes on reasonable grounds
18 that the person has committed an offence against this Act or the
19 regulations.
- 20 (2) The registration is suspended for such period (not exceeding 12
21 months) as the Regulator considers appropriate in all of the
22 circumstances. That period must be specified in the notice.

23 *Registration obtained improperly*

- 24 (3) The Regulator may, by written notice, suspend the registration of a
25 registered person if the registration was obtained improperly.
- 26 (4) The registration is suspended for such period (including
27 permanently) as the Regulator considers appropriate in all of the
28 circumstances. That period must be specified in the notice.

29 Note: The heading to section 30 is replaced by the heading “**Suspension of registration—**
30 **conviction of offence**”.

1 **58 At the end of Part 2**

2 Add:

3 **Division 9—Changing the nominated person for an**
4 **accredited power station**

5 **30B Changing the nominated person for an accredited power station**

6 (1) A registered person who is a stakeholder in relation to an
7 accredited power station may apply to the Regulator for approval
8 to become the nominated person for the power station.

9 Note: The nominated person is able to create certificates in respect of
10 electricity generated by the power station: see section 18.

11 (2) The application must:

- 12 (a) be made in a form and manner required by the Regulator; and
13 (b) contain any information required by the Regulator; and
14 (c) be accompanied by any documents required by the
15 Regulator; and
16 (d) be accompanied by the fee (if any) prescribed by the
17 regulations for the making of such applications; and
18 (e) be accompanied by a statement in writing from each other
19 stakeholder (if any) in relation to the power station indicating
20 that the other stakeholder agrees to the making of the
21 application.

22 (3) If the Regulator receives an application that is properly made, the
23 Regulator must, by writing, approve the applicant as the nominated
24 person for the power station.

25 (4) Otherwise, the Regulator must refuse to so approve the applicant
26 and must notify the applicant accordingly.

27 **Division 10—Varying what constitutes a power station**

28 **30C Varying what constitutes a power station**

29 (1) The Regulator may, by writing, vary a determination under
30 paragraph 14(1)(a). The Regulator may do so only in relation to an
31 accredited power station.

- 1 (2) The Regulator may do so on his or her own initiative or upon
2 application by the nominated person for the accredited power
3 station.
- 4 (3) The application must:
- 5 (a) be made in a form and manner required by the Regulator; and
6 (b) contain any information required by the Regulator; and
7 (c) be accompanied by any documents required by the
8 Regulator; and
9 (d) be accompanied by the fee (if any) prescribed by the
10 regulations for the making of such applications; and
11 (e) be accompanied by a statement in writing from each other
12 stakeholder (if any) in relation to the power station indicating
13 that the other stakeholder agrees to the making of the
14 application.
- 15 (4) If the Regulator refuses the application, the Regulator must notify
16 the applicant accordingly.

17 **Division 11—Suspending the accreditation of a power**
18 **station**

19 **30D Suspending the accreditation of a power station—**
20 **interconnected power stations**

- 21 (1) The Regulator may, by written notice, suspend the accreditation of
22 an accredited power station if:
- 23 (a) the power station is part of a group of interconnected power
24 stations; and
25 (b) one or more of the power stations (an *excess station*) in the
26 group generates electricity during a year that is in excess of
27 its 1997 eligible renewable power baseline for the year; and
28 (c) one or more of the power stations (a *shortfall station*) in the
29 group generates nil electricity during the year or generates
30 electricity during the year that is less than its 1997 eligible
31 renewable power baseline for the year; and
32 (d) the Regulator is satisfied that more certificates are able to be
33 created in respect of electricity generated during the year by
34 any excess station than would be able to be created if any
35 shortfall station had generated electricity during the year at

1 least equal to its 1997 eligible renewable power baseline for
2 the year.

3 *Period of suspension*

4 (2) The accreditation is suspended for such period (including
5 permanently) as the Regulator considers appropriate in all of the
6 circumstances. That period must be specified in the notice.

7 Note: Any electricity generated by the power station while its accreditation
8 is suspended is to be excluded from all calculations under section 18:
9 see subsection 18(4).

10 *Group of interconnected power stations*

11 (3) 2 or more power stations form a ***group of interconnected power***
12 ***stations*** if:

13 (a) each power station is able to generate electricity using a
14 particular supply (the ***relevant supply***) of an eligible
15 renewable energy source; and

16 (b) the amount of electricity generated by each power station
17 during a year using that supply is able to be co-ordinated in
18 order to allow more certificates to be created in respect of the
19 total electricity generated by the power stations during the
20 year using that supply than would otherwise be able to be
21 created.

22 *Relevant matters*

23 (4) In deciding whether or not to suspend the accreditation of an
24 accredited power station under subsection (1), the Regulator must
25 have regard to any information available to him or her that
26 demonstrates that either or both of the outcomes referred to in
27 paragraphs (1)(b) and (c) were not the result of a gaming
28 arrangement.

29 (5) The Regulator may have regard to such other matters as he or she
30 thinks appropriate.

31 *Gaming arrangement*

32 (6) A ***gaming arrangement*** is an arrangement to co-ordinate the
33 amount of electricity generated by each power station in the group

1 during the year using the relevant supply in order to allow more
2 certificates to be created in respect of the total electricity generated
3 by the power stations in the group during the year using that supply
4 than would otherwise be able to be created.

5 **30E Suspending the accreditation of a power station—other grounds**

6 *Failure to give an electricity generation return*

- 7 (1) The Regulator may, by written notice, suspend the accreditation of
8 an accredited power station if an electricity generation return for a
9 year, in respect of the station, has not been given to the Regulator
10 in accordance with section 20.
- 11 (2) The accreditation is suspended until the return is given to the
12 Regulator in accordance with that section. The notice must include
13 a statement to that effect.

14 *Contravention of Commonwealth, State or Territory law*

- 15 (3) The Regulator may, by written notice, suspend the accreditation of
16 an accredited power station if the Regulator believes on reasonable
17 grounds that the power station is being operated in contravention of
18 a law of the Commonwealth, a State or a Territory.
- 19 (4) The accreditation is suspended until the Regulator believes on
20 reasonable grounds that the power station is not being operated in
21 contravention of that law. The notice must include a statement to
22 that effect.

23 *Other circumstances*

- 24 (5) The Regulator may, by written notice, suspend the accreditation of
25 an accredited power station in any other circumstances prescribed
26 by the regulations.
- 27 (6) The accreditation is suspended for such period (including
28 permanently) as the Regulator considers appropriate in all of the
29 circumstances. That period must be specified in the notice.

30 Note: Any electricity generated by the power station while its accreditation
31 is suspended under this section is to be excluded from all calculations
32 under section 18: see subsection 18(4).

1 **Division 12—Varying 1997 eligible renewable power**
2 **baselines**

3 **30F Varying 1997 eligible renewable power baselines**

- 4 (1) The Regulator may, by written determination, vary the 1997
5 eligible renewable power baseline for an accredited power station
6 in the circumstances prescribed by the regulations.
- 7 (2) The regulations may make provision for the 1997 eligible
8 renewable power baseline for an accredited power station to be
9 varied if an action or policy of the Commonwealth Government
10 reduces the power station’s ability to generate electricity for a
11 sustained period.
- 12 (3) Subsection (2) does not limit subsection (1).

13 *Increase in baseline*

- 14 (4) If a determination increases the 1997 eligible renewable power
15 baseline for an accredited power station, the determination has
16 effect only for the years following the year in which the
17 determination is made.

18 *Decrease in baseline*

- 19 (5) If a determination decreases the 1997 eligible renewable power
20 baseline for an accredited power station, the determination has
21 effect for the year or years specified in the determination.

22 **59 Subsection 32(2)**

23 Omit “a generator”, substitute “the person who generated the
24 electricity”.

25 **60 At the end of section 32**

26 Add:

- 27 (3) If there is a wholesale acquisition of electricity under this section,
28 then no other acquisition in relation to that electricity is a relevant
29 acquisition (regardless of when the other acquisition occurs).

30 **61 Subsection 33(2)**

1 Omit “generator” (first occurring), substitute “person who generated the
2 electricity”.

3 **62 Subsection 33(2A)**

4 Repeal the subsection.

5 **63 Subsection 33(3)**

6 Omit “generator” (first occurring), substitute “person who generated the
7 electricity”.

8 **64 Subsection 36(2)**

9 After “required renewable energy”, insert “(see section 38)”.

10 **65 Section 38**

11 Omit “liable person” (wherever occurring), substitute “liable entity”.

12 **66 Paragraph 39(2)(b)**

13 Repeal the paragraph, substitute:

14 (b) for any later year—the rate worked out using the formula:

$$15 \quad \text{Renewable power percentage for the previous year} \times \frac{\text{Required GWh of renewable source electricity for the year}}{\text{Required GWh of renewable source electricity for the previous year}}$$

16 **67 After subsection 39(3)**

17 Insert:

18 (3A) If, at the time the Minister takes into consideration the matters
19 referred to in subsection (3), the amount applicable under
20 paragraph (3)(c) is not known, then the Minister may take into
21 consideration an estimate of that amount instead.

22 **68 Section 40 (table, heading to column 2)**

23 Omit “Required additional”.

24 **69 At the end of section 41**

1 Add:

2 Note: See also section 101 (about payment of penalty charge).

3 **70 Subsection 42(1)**

4 Omit “(including additional renewable energy shortfall charge)” (first
5 occurring), substitute “, penalty charge or interest charge”.

6 **71 Subsection 42(1)**

7 Omit “(including additional renewable energy shortfall charge)” (last
8 occurring), substitute “, penalty charge and interest charge”.

9 **72 At the end of subsection 44(1)**

10 Add:

11 Note: For amendment of such statements, see section 45A.

12 **73 Subsection 44(4)**

13 Omit “annual energy acquisition”.

14 **74 Subsection 44(4)**

15 Omit “liable person”, substitute “liable entity”.

16 **75 Subsection 44(4)**

17 Omit “certificates” (last occurring), substitute “certificate”.

18 **76 Subsection 44(5)**

19 Repeal the subsection, substitute:

20 (5) The liable entity must pay the fee (if any) prescribed by the
21 regulations for the surrender of the renewable energy certificates
22 that are being surrendered for the year.

23 (6) The statement may be accompanied by the fee. Otherwise, the
24 liable entity must pay the fee within 60 days after the lodging of
25 the statement.

26 (7) If the fee is unpaid after that time, it is a debt due to the
27 Commonwealth and is recoverable by the Regulator in a court of
28 competent jurisdiction.

1 **77 After section 45**

2 Insert:

3 **45A Amending annual energy acquisition statements**

- 4 (1) The Regulator may amend an energy acquisition statement if the
5 liable entity requests, in writing, an amendment within 12 months
6 of lodging the statement.
- 7 (2) The Regulator may also amend an energy acquisition statement on
8 his or her own initiative if the amendment is made within 4 years
9 of the liable entity lodging the statement.
- 10 (3) If the Regulator refuses to amend an energy acquisition statement
11 upon a request by a liable entity, the Regulator must notify the
12 entity accordingly.

13 Note: An amendment of an energy acquisition statement under this section
14 may also result in the Regulator issuing an assessment under
15 section 48 or amending an assessment under section 49.

16 **78 Paragraphs 46(2)(d) and (e)**

17 Repeal the paragraphs, substitute:

- 18 (d) either any carried forward shortfall for the year or the amount
19 of the renewable energy shortfall charge for the year; and

20 **79 Paragraph 47(c)**

21 After “charge”, insert “(if any)”.

22 **80 Paragraph 47(e)**

23 Repeal the paragraph, substitute:

- 24 (e) the renewable energy certificate shortfall specified in the
25 statement is taken to be the liable entity’s renewable energy
26 certificate shortfall for the year; and
- 27 (ea) the amount of renewable energy shortfall charge (if any)
28 specified in the statement is taken to be the amount of
29 renewable energy shortfall charge payable by the liable entity
30 for the year; and

31 **81 Paragraph 48(1)(b)**

1 Omit “is liable to pay renewable energy shortfall charge for the year”,
2 substitute “has a renewable energy certificate shortfall for the year”.

3 **82 Subsection 48(1)**

4 Before “payable”, insert “(if any)”.

5 **83 Paragraph 48(2)(c)**

6 Omit “is liable to pay renewable energy shortfall charge for the year”,
7 substitute “has a renewable energy certificate shortfall for the year”.

8 **84 Subsection 48(2)**

9 Before “payable”, insert “(if any)”.

10 **85 At the end of subsection 49(1)**

11 Add:

12 Note: This Division does not apply in relation to an assessment under
13 section 102: see section 53A.

14 **86 Subsection 49(3)**

15 Omit “An”, substitute “Subject to subsection (5), an”.

16 **87 Paragraph 49(6)(a)**

17 Omit “the decision”, substitute “a decision”.

18 **88 Paragraph 49(6)(b)**

19 Omit “its amendment by reduction of”, substitute “a decision to
20 reduce”.

21 **89 Subsection 50(2) (definition of *overpaid amount*)**

22 Omit “additional renewable energy shortfall charge under section 70 or
23 Part 9”, substitute “penalty charge or interest charge”.

24 **90 Section 52**

25 Omit “person liable to pay the renewable energy shortfall charge”,
26 substitute “liable entity concerned”.

27 **91 At the end of Part 5**

28 Add:

1 **53A Application of Division**

2 This Division does not apply in relation to an assessment under
3 section 102.

4 **92 At the end of section 54**

5 Add:

6 (2) This Division does not apply in relation to an assessment under
7 section 102.

8 Note: However, a person may seek review of a decision to make an
9 assessment under section 102: see Division 2.

10 **93 Section 55**

11 Omit “person” (wherever occurring), substitute “liable entity”.

12 **94 Subsection 57(2)**

13 Omit “person’s”, substitute “liable entity’s”.

14 Note: The heading to section 57 is altered by omitting “**Applications**” and substituting
15 “**Requests**”.

16 **95 Subsection 57(4)**

17 Omit “person”, substitute “liable entity”.

18 **96 Subsection 57(6)**

19 Omit “person”, substitute “liable entity”.

20 **97 Subsection 58(3)**

21 Omit “person”, substitute “liable entity”.

22 **98 Section 62**

23 Omit “person”, substitute “liable entity”.

24 **99 Section 65**

25 Omit “additional renewable energy shortfall charge”, substitute
26 “penalty charge, interest charge”.

27 **100 Subsection 66(1) (after table item 3)**

28 Insert:

Schedule 1 Amendments
Part 1 Amendments

1

3A	to amend, or to refuse to amend, an electricity generation return	section 20A	the nominated person for the accredited power station concerned.
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2 **101 Subsection 66(1) (table item 5)**

3 After “section 30”, insert “or 30A”.

4 **102 Subsection 66(1) (after table item 5)**

5 Insert:

6

5A	to refuse to approve a person as the nominated person for an accredited power station	section 30B	the person.
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5B	to vary, or to refuse to vary, a determination under paragraph 14(1)(a)	section 30C	the nominated person for the accredited power station concerned.
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5C	to suspend the accreditation of an accredited power station	section 30D or 30E	the nominated person for the power station.
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5D	to vary the 1997 eligible renewable power baseline for an accredited power station	section 30F	the nominated person for the power station.
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5E	to amend, or to refuse to amend, an energy acquisition statement	section 45A	the liable entity concerned.
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7 **103 Subsection 66(1) (table item 6)**

8 Repeal the item, substitute:

9

6	assessing penalty charge	section 102	the liable entity that is liable to pay the penalty charge.
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10 **104 Subsection 66(1) (table item 7)**

11 Omit “additional renewable energy shortfall charge” (wherever
12 occurring), substitute “penalty charge”.

1 **105 Part 7 (heading)**

2 Repeal the heading, substitute:

3 **Part 7—Collection and recovery of charge**

4 **106 Section 68**

5 Omit “Additional renewable energy shortfall charge under Part 9”,
6 substitute “Penalty charge”.

7 Note: The heading to section 68 is altered by omitting “**additional renewable energy**
8 **shortfall charge**” and substituting “**penalty charge**”.

9 **107 Section 68**

10 Omit “the additional charge”, substitute “that charge”.

11 **108 Section 70**

12 Repeal the section, substitute:

13 **70 Interest penalty for unpaid renewable energy shortfall charge or**
14 **unpaid penalty charge**

15 *Unpaid renewable energy shortfall charge*

16 (1) If any amount (the *unpaid amount*) of renewable energy shortfall
17 charge which a liable entity is liable to pay remains unpaid after
18 the time by which it is due to be paid, the liable entity is liable to
19 pay, by way of penalty, interest charge on the unpaid amount for
20 each day in the period that:

- 21 (a) started at the beginning of the day by which the amount of
22 the renewable energy shortfall charge was due to be paid; and
23 (b) finishes at the end of the last day on which, at the end of the
24 day, any of the following remains unpaid:
25 (i) the renewable energy shortfall charge;
26 (ii) interest charge on any of the renewable energy shortfall
27 charge.

28 *Unpaid penalty charge*

29 (2) If any amount (the *unpaid amount*) of penalty charge which a
30 liable entity is liable to pay remains unpaid after the time by which

- 1 it is due to be paid, the liable entity is liable to pay, by way of
2 penalty, interest charge on the unpaid amount for each day in the
3 period that:
- 4 (a) started at the beginning of the day by which the amount of
5 the penalty charge was due to be paid; and
 - 6 (b) finishes at the end of the last day on which, at the end of the
7 day, any of the following remains unpaid:
 - 8 (i) the penalty charge;
 - 9 (ii) interest charge on any of the penalty charge.

10 *Amount of interest charge*

- 11 (3) The amount of the interest charge for a day is worked out by
12 multiplying the unpaid amount by the general interest charge rate
13 for the day.

14 *When interest charge becomes due and payable*

- 15 (4) The interest charge for a day is due and payable at the end of that
16 day.

17 **109 Subsection 81(1)**

18 Repeal the subsection, substitute:

- 19 (1) This Subdivision applies if:
- 20 (a) a person (the *receiver*), in the capacity of receiver, or of
21 receiver and manager, takes possession of a company's assets
22 for the company's debenture holders; and
 - 23 (b) the company is, or has been, a liable entity.

24 **110 At the end of subsection 85(1)**

25 Add:
26 ; and (c) is, or has been, a liable entity.

27 **111 Paragraph 89(3)(a)**

28 Omit "returns", substitute "statement".

29 **112 Paragraph 89(3)(b)**

30 Omit "additional returns or".

1 **113 Paragraph 89(4)(b)**

2 Omit “return”, substitute “statement”.

3 **114 Subsection 95(2)**

4 Omit “return”, substitute “renewable energy shortfall statement”.

5 **115 Subsection 96(2)**

6 After “charge”, insert “paid by the liable entity”.

7 **116 Subsection 99(1)**

8 Omit “additional renewable energy shortfall charge”, substitute
9 “penalty charge”.

10 **117 Subsection 99(2)**

11 Omit “additional renewable energy shortfall charge”, substitute
12 “penalty charge”.

13 **118 Subsection 99(3)**

14 Omit “additional renewable energy shortfall charge”, substitute
15 “penalty charge”.

16 **119 Subsection 99(4)**

17 Omit “additional renewable energy shortfall charge”, substitute
18 “penalty charge”.

19 **120 Subsection 100(1)**

20 Omit “additional renewable energy shortfall charge”, substitute
21 “penalty charge”.

22 **121 Section 101**

23 Omit “additional renewable energy shortfall charge”, substitute
24 “penalty charge”.

25 Note: The heading to section 101 is altered by omitting “**Penalty renewable energy shortfall**
26 **charge**” and substituting “**Penalty charge**”.

27 **122 Subsection 102(1)**

28 Omit “additional renewable energy shortfall charge”, substitute
29 “penalty charge”.

1 Note: The heading to section 102 is altered by omitting “**additional renewable energy**
2 **shortfall charge**” and substituting “**penalty charge**”.

3 **123 Section 103**

4 Omit “additional renewable energy shortfall charge” (wherever
5 occurring), substitute “penalty charge”.

6 Note: The heading to section 103 is altered by omitting “**additional renewable energy**
7 **shortfall charge**” and substituting “**penalty charge**”.

8 **124 After subsection 107(1)**

9 Insert:

10 (1A) The Regulator may, in writing, also appoint any of the following
11 persons to be an authorised officer for the purposes of this Part:

12 (a) any other person who is appointed or employed by the
13 Commonwealth;

14 (b) a person who is appointed or employed by a State or a
15 Territory.

16 **125 Subsection 110(1)**

17 Omit “this Act or of determining whether this Act has”, substitute “this
18 Act or the regulations or of determining whether this Act or the
19 regulations have”.

20 Note: The heading to section 110 is replaced by the heading “**Entry to premises**”.

21 **126 Paragraph 111(1)(b)**

22 After “this Act”, insert “or the regulations”.

23 **127 Paragraph 111(1)(c)**

24 After “this Act”, insert “or the regulations”.

25 **128 Paragraph 111(1)(e)**

26 After “this Act”, insert “or the regulations”.

27 **129 Subparagraph 111(1)(h)(iii)**

28 Omit “that”.

29 **130 Subsection 111(2)**

1 Omit “assessing the correctness of information provided under this
2 Act”, substitute “substantiating information provided under this Act or
3 the regulations”.

4 **131 Paragraph 112(1)(a)**

5 After “this Act”, insert “or the regulations”.

6 **132 Paragraph 112(2)(a)**

7 After “this Act”, insert “or the regulations”.

8 **133 Paragraph 114(a)**

9 Omit “gives evidence to”, substitute “answers a question put by”.

10 **134 Paragraph 114(b)**

11 Omit “evidence”, substitute “answer”.

12 **135 Paragraph 114(c)**

13 Omit “evidence”, substitute “answer”.

14 **136 Subsection 119(1)**

15 Omit “premises in respect of which it is being executed”, substitute
16 “warrant premises”.

17 **137 Paragraph 120(2)(a)**

18 After “this Act”, insert “or the regulations”.

19 **138 Subsection 125(2)**

20 Omit “this Act or of determining whether this Act has”, substitute “this
21 Act or the regulations or of determining whether this Act or the
22 regulations have”.

23 **139 After Part 11**

24 Insert:

1 **Part 11A—Information-gathering powers**
2

3 **125A Regulator may obtain information and documents**

- 4 (1) This section applies to a person if the Regulator has reason to
5 believe that the person:
6 (a) has information or a document that is relevant to the
7 operation of this Act; or
8 (b) is capable of giving evidence which the Regulator has reason
9 to believe is relevant to the operation of this Act.
- 10 (2) The Regulator may, by written notice given to the person, require
11 the person:
12 (a) to give to the Regulator, within the period and in the manner
13 and form specified in the notice, any such information; or
14 (b) to produce to the Regulator, within the period and in the
15 manner specified in the notice, any such documents; or
16 (c) if the person is an individual—to appear before the Regulator
17 at a time and place specified in the notice to give any such
18 evidence, either orally or in writing, and produce any such
19 documents; or
20 (d) if the person is a body corporate—to cause a competent
21 officer of the body to appear before the Regulator at a time
22 and place specified in the notice to give any such evidence,
23 either orally or in writing, and produce any such documents.
- 24 (3) A person is guilty of an offence if the person fails to comply with a
25 requirement under subsection (2).

26 Maximum penalty: 20 penalty units.

27 Note: Chapter 2 of the *Criminal Code* sets out the general principles of
28 criminal responsibility.

- 29 (4) Strict liability applies to the element of the offence against
30 subsection (3) that the requirement is under subsection (2).

31 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- 32 (5) A notice under subsection (2) must set out the effect of the
33 following provisions:

- 34 (a) subsection (3);
-

- 1 (b) section 125E;
2 (c) section 125F;
3 (d) section 153.

4 **125B Self-incrimination**

- 5 (1) An individual is not excused from giving information or evidence
6 or producing a document under this Part on the ground that the
7 information or evidence or the production of the document might
8 tend to incriminate the individual or expose the individual to a
9 penalty.
- 10 (2) However:
- 11 (a) the information or evidence given or the document produced;
12 or
13 (b) any information, document or thing obtained as a direct or
14 indirect consequence of giving the information or evidence or
15 producing the document;
- 16 is not admissible in evidence against the individual in criminal
17 proceedings other than:
- 18 (c) proceedings for an offence against subsection 125A(3) or
19 section 125E or 125F; or
20 (d) proceedings for an offence against section 153 that relates to
21 this Part.

22 **125C Copies of documents**

23 The Regulator may inspect a document produced under this Part
24 and may make and retain copies of, or take and retain extracts
25 from, such a document.

26 **125D Regulator may retain documents**

- 27 (1) The Regulator may take, and retain for as long as is necessary,
28 possession of a document produced under this Part.
- 29 (2) The person otherwise entitled to possession of the document is
30 entitled to be supplied, as soon as practicable, with a copy certified
31 by the Regulator to be a true copy.

1 (3) The certified copy must be received in all courts and tribunals as
2 evidence as if it were the original.

3 (4) Until a certified copy is supplied, the Regulator must, at such times
4 and places as the Regulator thinks appropriate, permit the person
5 otherwise entitled to possession of the document, or a person
6 authorised by that person, to inspect and make copies of, or take
7 extracts from, the document.

8 **125E False or misleading evidence**

- 9 (1) A person is guilty of an offence if:
10 (a) the person gives evidence to another person; and
11 (b) the person does so knowing that the evidence is false or
12 misleading in a material particular; and
13 (c) the evidence is given in compliance or purported compliance
14 with section 125A.

15 Maximum penalty: Imprisonment for 12 months.

16 Note: Chapter 2 of the *Criminal Code* sets out the general principles of
17 criminal responsibility.

18 (2) Strict liability applies to paragraph (1)(c).

19 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

20 **125F False or misleading documents**

- 21 (1) A person is guilty of an offence if:
22 (a) the person produces a document to another person; and
23 (b) the person does so knowing that the document is false or
24 misleading in a material particular; and
25 (c) the document is produced in compliance or purported
26 compliance with section 125A.

27 Maximum penalty: Imprisonment for 12 months.

28 Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of
29 criminal responsibility.

30 Note 2: See also section 153 of this Act (which creates an offence for the
31 giving of false or misleading information).

32 (2) Strict liability applies to paragraph (1)(c).

1 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

2 (3) Subsection (1) does not apply to a person who produces a
3 document if the document is accompanied by a written statement
4 signed by the person or, in the case of a body corporate, by a
5 competent officer of the body corporate:

6 (a) stating that the document is, to the knowledge of the
7 first-mentioned person, false or misleading in a material
8 particular; and

9 (b) setting out, or referring to, the material particular in which
10 the document is, to the knowledge of the first-mentioned
11 person, false or misleading.

12 Note: A defendant bears an evidential burden in relation to the matter in
13 subsection (3), see subsection 13.3(3) of the *Criminal Code*.

14 **140 Paragraph 126(1)(b)**

15 Repeal the paragraph, substitute:

16 (b) a member of the staff of the Office of the Renewable Energy
17 Regulator referred to in section 151; or

18 **141 Section 128**

19 Omit “for the purpose of implementing this Act”, substitute “for the
20 purposes of this Act”.

21 **142 Subsection 130(1)**

22 Omit “for the purpose of implementing this Act”, substitute “for the
23 purposes of this Act”.

24 **143 Paragraph 132(1)(b)**

25 After “powers”, insert “in connection with proceedings under this Act”.

26 **144 Paragraph 138(b)**

27 Repeal the paragraph, substitute:

28 (b) the name of the nominated person for the accredited power
29 station; and

30 **145 Paragraph 140(a)**

31 Omit “number”, substitute “unique identification code”.

1 **146 Paragraph 141A(b)**

2 Omit “electricity generation system”, substitute “power station”.

3 **147 Paragraph 141A(d)**

4 Omit “Registrar”, substitute “Regulator”.

5 **148 At the end of subsection 147(3)**

6 Add:

7 ; or (e) fails, without reasonable excuse, to comply with
8 section 147A (disclosure of interests).

9 **149 After section 147**

10 Insert:

11 **147A Disclosure of interests**

12 The Regulator must give written notice to the Minister of all
13 interests, pecuniary or otherwise, that the Regulator has or acquires
14 and that could conflict with the proper performance of the
15 Regulator’s functions.

16 **150 Subsection 148(3)**

17 Omit “The Consolidated Revenue Fund is appropriated for the payment
18 of the remuneration and allowances.”.

19 **151 Subsection 160(1)**

20 Omit “by the employer”.

21 **152 Subsection 161(2)**

22 Repeal the subsection.

1

2 **Part 2—Application and transitional provisions**

3 **153 Application—assessments**

4 The amendment made by item 1 applies in relation to decisions made
5 after the commencement of that item.

6 **154 Application—creation of renewable energy certificates**

7 The amendments made by items 3, 34, 35, 36, 39, 52, 53, 54 and 145
8 apply in relation to certificates created after the commencement of those
9 items.

10 **155 Application—charges**

11 The amendments made by items 6, 10, 14, 89, 99, 103, 104, 106, 107,
12 108 and 116 to 123 apply in relation to amounts that a liable entity
13 becomes liable to pay after the commencement of those items.

14 **156 Application—applications for accreditation of a power
15 station**

16 The amendments made by items 21, 22, 23, 25, 28 and 146 apply in
17 relation to applications made after the commencement of those items.

18 **157 Application—electricity generation**

19 The amendment made by item 33 applies in relation to electricity
20 generated after the commencement of that item.

21 **158 Application—solar water heaters**

22 The amendments made by items 44 to 49 apply in relation to solar water
23 heaters installed after the commencement of those items.

24 **159 Application—small generation units**

25 The amendments made by items 50 and 51 apply in relation to small
26 generation units installed before or after the commencement of those
27 items.

28 **160 Application—registration of renewable energy
29 certificates**

1 The amendment made by item 55 applies in relation to notifications
2 made after the commencement of that item.

3 **161 Application—relevant acquisitions of electricity**

4 The amendments made by items 60 and 62 apply in relation to
5 acquisitions of electricity occurring in the year ending 31 December
6 2002 or in any later year.

7 **162 Application—secrecy**

8 The amendments made by items 141, 142 and 143 apply in relation to
9 proceedings instituted after the commencement of those items.

10 **163 Transitional—accredited power stations**

11 (1) This item applies in relation to a power station that was accredited
12 under Division 3 of Part 2 of the *Renewable Energy (Electricity) Act*
13 2000 before the commencement of item 21 of this Schedule.

14 (2) The Regulator must, within 28 days after the commencement of that
15 item, approve a person as the nominated person for the power station.

16 Note: The register of accredited power stations is to contain the name of the
17 nominated person for an accredited power station: see section 138 of the
18 *Renewable Energy (Electricity) Act 2000*.

19 (3) The person approved must be a stakeholder in relation to the power
20 station.

21 Note: Another stakeholder in relation to the power station may later apply to the
22 Regulator to become the nominated person for the power station: see
23 section 30B of the *Renewable Energy (Electricity) Act 2000*.

24 (4) The approval must be in writing and is taken to be an approval given
25 under section 30B of the *Renewable Energy (Electricity) Act 2000*.

26 (5) For the purposes of section 66 of the *Renewable Energy (Electricity)*
27 *Act 2000*:

28 (a) the approval is taken to be a reviewable decision; and

29 (b) the affected person in relation to that decision is taken to be
30 any other stakeholder in relation to the power station.

31 (6) For the purposes of this item, *stakeholder*, in relation to a power station,
32 means:

- 1 (a) a person who operates the power station (whether alone or
2 together with one or more other persons); or
3 (b) a person who owns all, or a part, of the power station
4 (whether alone or together with one or more other persons).

5 **164 Transitional—relevant acquisitions of electricity**

- 6 (1) This item applies if:
7 (a) a person has lodged an energy acquisition statement for the
8 year ending on 31 December 2001 (the **2001 year**); and
9 (b) the amount of electricity specified in the statement as having
10 been acquired under relevant acquisitions is greater than the
11 amount that would have been acquired under relevant
12 acquisitions if the amendments made by items 60 and 62 had
13 applied to the 2001 year.
- 14 (2) If this item applies, the amount of electricity acquired under relevant
15 acquisitions during the 2001 year is taken to be the amount that would
16 have been acquired under relevant acquisitions if the amendments made
17 by items 60 and 62 had applied to the 2001 year.
- 18 (3) If, after the application of this item, the person has a carried forward
19 surplus at the end of the 2001 year, the Regulator may, upon written
20 application by the person:
21 (a) reduce the carried forward surplus of the person for the 2001
22 year (which may be to nil); and
23 (b) reduce the renewable energy certificate shortfall of another
24 person for the 2001 year by a corresponding amount.