

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to establish a mandatory renewable energy target in relation to all electricity consumed in New South Wales.

This Bill closely follows the form and structure of the Victorian renewable energy scheme implemented under the *Victorian Renewable Energy Act 2006* of Victoria and is similar in principle to the Commonwealth renewable energy scheme implemented under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

The scheme facilitates the operation of a renewable energy market based on tradeable renewable energy certificates created and sold by persons who generate electricity using renewable energy sources.

Certain persons who acquire electricity from the national electricity market for use in New South Wales or who generate electricity for their own use or for retail supply in New South Wales will be required to acquire a certain percentage of electricity from renewable energy sources each year.

To comply with the renewable energy target, it is necessary to surrender certificates that are created by energy generators that generate electricity using renewable energy sources (such as hydro, wind and solar). If a power station generates electricity using renewable energy sources, the power station must be accredited under the Act before certificates can be created in relation to the generation of the electricity. A simplified procedure applies in relation to small generation units that use renewable energy sources.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 January 2008, subject to earlier proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Certificate is defined as a renewable energy certificate created under the proposed Act.

Eligible renewable energy source is defined as the energy sources in respect of which certificates may be created—see clause 22 for a list of these sources.

Energy acquisition statement is defined as the annual statement that must be lodged by a relevant entity with the Scheme Administrator—see Part 5.

Relevant entity is defined as a person who makes a scheme acquisition and who must surrender certificates accordingly—see clause 60.

Relevant power station is defined as a power station that is a **Market Generator** within the meaning of the *National Electricity Rules*, as in force from time to time, referred to in the *National Electricity (NSW) Law*.

Renewable energy shortfall penalty is defined as the penalty payable if a relevant entity does not surrender sufficient certificates in respect of a year—see Part 4.

Scheme acquisition is defined as the kinds of acquisitions of electricity which result in the requirement for certain persons (relevant entities) to surrender certificates (see also the definition of **relevant entity** and clause 60).

Scheme Administrator is defined as a person or body appointed for the time being under the proposed Act to exercise any of the functions of the Scheme Administrator under the proposed Act—see Part 8.

Scheme capacity is defined as the generation capacity of an accredited power station in respect of which certificates may be created—see clauses 17 and 26.

Clause 4 sets out the objects of the proposed Act.

Clause 5 sets out an outline of the proposed Act for explanatory purposes.

Clause 6 provides that the proposed Act binds the Crown.

Clause 7 provides for the proposed Act to have extra-territorial operation.

Part 2 Renewable energy certificates

Division 1 Registration of persons

Clause 8 provides for the making of applications for registration under the proposed Act. Only registered persons may create certificates under the proposed Act.

Clause 9 sets out requirements which the Scheme Administrator may make with respect to an application for registration.

Clause 10 provides that the Scheme Administrator may approve or refuse an application for registration.

Clause 11 provides for the allocation of unique registration numbers.

Division 2 Provisional accreditation of power stations

Clause 12 provides for the making of applications for provisional accreditation of relevant power stations. Provisional accreditation is a pre-cursor to obtaining full accreditation under the proposed Act.

Clause 13 provides that the Scheme Administrator may approve or refuse an application for provisional accreditation of a relevant power station.

Clause 14 specifies the time (40 business days) within which the Scheme Administrator must decide an application for provisional accreditation. A longer period may be agreed with the applicant.

Division 3 Accreditation of power stations

Clause 15 provides for the making of applications for accreditation of relevant power stations. If a power station is accredited under the proposed Act, certificates may be created in respect of power generated (using renewable energy sources) by the power station.

Clause 16 sets out requirements which the Scheme Administrator may make with respect to an application for accreditation.

Clause 17 requires the Scheme Administrator to decide various matters in relation to the accreditation of a power station, including which components of the system comprise a relevant power station for the purposes of the proposed Act, whether the relevant power station is eligible for accreditation, the power station's pre-scheme capacity, the power station's scheme capacity, and any energy sources used by the relevant power station that are not eligible renewable energy sources.

Clause 18 provides that the Scheme Administrator may approve or refuse an application for accreditation.

Clause 19 specifies the time (40 business days) within which the Scheme Administrator must decide an application for accreditation. A longer period may be agreed with the applicant.

Clause 20 provides that the applicant for accreditation (who must be a registered person under Division 1) will be the nominated person for the accredited power station. The nominated person will be able to create renewable energy certificates (see clause 26).

Clause 21 provides for the allocation of unique identification codes for accredited power stations.

Clause 22 lists the energy sources that are eligible renewable energy sources for the purposes of the proposed Act—for example, hydro, wave, wind, geothermal-aquifer, agricultural waste, and landfill gas. Solar energy is included, but not solar energy used primarily for heating water.

Clause 23 makes it clear that fossil fuels, material or waste products derived from fossil fuels and native forest bio-material, are not eligible renewable energy sources for the purposes of the proposed Act.

Clause 24 provides that the regulations may specify additional energy sources as eligible renewable energy sources.

Clause 25 provides that the scheme rules may make further provision with respect to the energy sources referred to in clauses 22 and 23.

Division 4 Creation of certificates

Subdivision 1 Electricity generation

Clause 26 establishes the entitlement of a nominated person to create a certificate for each whole megawatt hour (MWh) of electricity generated from eligible renewable energy sources by an accredited power station utilising scheme capacity.

Clause 27 provides that a certificate may be created following the generation of the final part of electricity in relation to which the certificate is created and before the end of the year after the year of generation.

Clause 28 makes provision for participation in the scheme by persons who participate in other renewable energy schemes (known as scheme switching). In particular, the clause provides that a nominated person must not create certificates for electricity generated if:

- (a) a renewable energy certificate under a corresponding Act has been created in respect of that electricity, or
- (b) an abatement certificate under Part 8A of the *Electricity Supply Act 1995* has been created in respect of the generation of that electricity, or
- (c) a certificate, credit or other thing conferring a similar benefit to the benefit conferred by a renewable energy certificate under the proposed Act has been created in respect of the generation of that electricity under a voluntary renewable energy scheme.

Clause 29 requires a nominated person for an accredited power station to provide an audited electricity generation return for a year to the Scheme Administrator by 14 March in the following year. The return will include details of the amount of electricity generated by the power station during the year utilising scheme capacity, the amount of that electricity generated from eligible renewable energy sources, and the number of certificates created during the year.

Subdivision 2 Small generation units

Clause 30 provides that a certificate may be created in relation to a small generation unit installed on or after 1 January 2007 (but not before the commencement of this clause). Small generating units must use eligible renewable energy sources and the scheme rules will specify the size of different types of units—for example, hydro, wind or solar.

Clause 31 provides that the number of certificates that may be created in relation to a small generation unit is to be determined in accordance with the scheme rules.

Clause 32 entitles the owner of a small generation unit to create a certificate. An owner may assign this entitlement to another person. However, the person who creates the certificates must be registered under Division 1.

Clause 33 provides that a registered person must not create certificates in relation to a small generation unit under Subdivision 1 (that is, as for an accredited power station) unless an election is made under clause 35.

Clause 34 makes provision for participation in the scheme by persons who participate in other renewable energy schemes (known as scheme switching). In particular, the clause provides that a registered person must not create certificates in respect of electricity generated by a small generation unit if:

- (a) a renewable energy certificate under a corresponding Act has been created in respect of that electricity, or
- (b) an abatement certificate under Part 8A of the *Electricity Supply Act 1995* has been created in respect of the generation of that electricity, or
- (c) a certificate, credit or other thing conferring a similar benefit to the benefit conferred by a renewable energy certificate under the proposed Act has been created in respect of the generation of that electricity under a voluntary renewable energy scheme.

Clause 35 provides that the owner of a qualifying small generating unit (defined by the scheme rules) may elect that Subdivision 2 does not apply to the creation of

certificates that relate to the unit. If an election is made, a person must not create certificates under Subdivision 2, but may create certificates under Subdivision 1. The election must be made within 20 business days beginning on the day the unit is installed and prior to the creation of any certificates that relate to the unit under Subdivision 2.

Clause 36 requires a person who creates more than 250 certificates during a year under Subdivision 2 to provide an audited electricity generation return to the Scheme Administrator by 14 March in the following year.

Subdivision 3 End of right to create certificates

Clause 37 provides that no certificates can be created under either Subdivision 1 or 2 on or after 1 January 2031.

Subdivision 4 Improper creation of certificates

Clause 38 prohibits a person who is not entitled to create certificates from creating certificates. The maximum penalty for a contravention of this clause is 60 penalty units for an individual and 240 penalty units for a body corporate.

Division 5 Form and registration of certificates

Clause 39 requires certificates in relation to accredited power stations to be created in an electronic form approved by the Scheme Administrator. Each certificate is to include a unique identification code.

Clause 40 requires certificates in relation to small generating units to be created in an electronic form approved by the Scheme Administrator. Each certificate is to include a unique identification code.

Clause 41 provides that a certificate is not valid until it is registered. The Scheme Administrator must register certificates it determines are eligible for registration. The Scheme Administrator may require a person who created a certificate to provide information in connection with the creation of the certificate.

Division 6 Transfer of certificates

Clause 42 provides that registered certificates may be transferred to any person.

Clause 43 requires the Scheme Administrator to be notified of the transfer of a certificate. The Scheme Administrator must record the transferee as the owner of the certificate in the register of renewable energy certificates.

Division 7 Retirement of certificates

Clause 44 provides that the owner of a certificate may voluntarily surrender it to the Scheme Administrator.

Clause 45 provides that a certificate ceases to be valid if it is surrendered voluntarily or in compliance with a Scheme Administrator order. The Scheme Administrator must adjust the register of renewable energy certificates accordingly.

Division 8 Suspension of registration

Clause 46 provides for the suspension of a person's registration for up to two years if that person is convicted of the offence of improperly creating certificates. In the case of a second conviction, the suspension may be for a longer period or permanent.

Clause 47 provides for the suspension of a registered person's registration for up to 12 months if the Scheme Administrator believes on reasonable grounds that the person has committed an offence against the proposed Act or has breached an undertaking given to the Scheme Administrator. This clause also provides for the suspension of a person's registration for such period (including permanently) as the Scheme Administrator considers appropriate if the registration was obtained improperly.

Division 9 Changing the nominated person for an accredited power station

Clause 48 provides that a registered person who is a stakeholder in relation to an accredited power station (that is, an owner or operator of a power station) may apply to the Scheme Administrator for approval to become the nominated person for the power station.

Division 10 Varying what constitutes a power station

Clause 49 provides that, on application by the nominated person for an accredited power station, the Scheme Administrator may vary its decision on which components constitute the power station for the purposes of the proposed Act.

Division 11 Suspending the accreditation of a relevant power station

Clause 50 provides for suspension of the accreditation of a power station if a gaming arrangement (as defined) has occurred.

Clause 51 provides for suspension of the accreditation of a power station on a number of other grounds including because an electricity generation return has not been lodged with the Scheme Administrator as required, or because the Scheme Administrator believes on reasonable grounds that the nominated person has breached an undertaking given to the Scheme Administrator.

Clause 52 provides that the regulations may specify other circumstances in which the Scheme Administrator may suspend the accreditation of a power station.

Division 12 Varying pre-scheme capacity and scheme capacity

Clause 53 provides that, on application by the nominated person for an accredited power station, the Scheme Administrator may vary the pre-scheme or scheme capacity for the power station. Such a variation will have effect on and from the time the Scheme Administrator gives written notice.

Part 3 Acquisitions of electricity

Clause 54 provides that a standard scheme acquisition is an acquisition of electricity from NEMMCO or a person or body specified under the scheme rules. The electricity acquired must be for use in New South Wales. A person that makes a standard scheme acquisition (unless it is an excluded acquisition) will be required to comply with the mandatory renewable energy targets set out in the proposed Act.

Clause 55 provides that where a person generates electricity for use by that person in New South Wales that person is taken to have made a notional scheme acquisition at the time the person uses the electricity. The clause also provides that a retail supplier (within the meaning of the *Electricity Supply Act 1995*) that acquires electricity other than by a standard scheme acquisition, for use in New South Wales, is taken to have made a notional scheme acquisition of electricity. A person that makes a notional scheme acquisition (unless it is an excluded acquisition) will be required to comply with the mandatory renewable energy targets set out in the proposed Act.

Clause 56 provides that an acquisition of electricity is an excluded acquisition if the electricity is later acquired by NEMMCO or a person or body specified in the scheme rules, or if the acquisition is a standard scheme acquisition or a notional scheme acquisition specified by an order under clause 57, or by the regulations.

Clause 57 enables the Governor to make an order specifying certain standard scheme acquisitions and notional scheme acquisitions to be excluded acquisitions.

Clause 58 provides that no acquisition of electricity by NEMMCO is a scheme acquisition.

Clause 59 provides that the amount of electricity acquired under a scheme acquisition will be determined in accordance with the scheme rules. This clause further provides that the amount of electricity acquired under a scheme acquisition will exclude electricity used for the primary purpose of generating, transmitting or distributing electricity.

Part 4 Renewable energy certificate shortfall

Division 1 Prohibition of renewable energy certificate shortfall

Clause 60 provides that a relevant entity is a person who makes a scheme acquisition of electricity (that is, a standard scheme acquisition or a notional scheme

acquisition).

Clause 61 prohibits a relevant entity from having a renewable energy certificate shortfall for a year in which it makes a scheme acquisition of electricity.

Clause 62 makes a relevant entity that has a renewable energy shortfall in a year liable to pay a renewable energy shortfall penalty. The renewable energy shortfall payable is to be calculated by multiplying the relevant entity's renewable energy shortfall for a year by the shortfall penalty rate for that year.

Clause 63 provides that the shortfall penalty rate is \$43 per MWh as varied each year by the all groups consumer price index for Melbourne (this maintains consistency with the Victorian renewable energy scheme). The Scheme Administrator must publish the shortfall penalty rate for each year.

Clause 64 provides for the calculation of a relevant entity's renewable energy certificate shortfall and carried forward surplus for a year, based on the renewable power percentage for the year.

Division 2 Renewable power percentage

Clause 65 provides that the Governor may, by order published in the Gazette, fix, on or before 31 May in a year, the renewable power percentage in respect of that year. If an order has not fixed the renewable power percentage in respect of a year, the percentage is to be calculated in the method contained in the scheme rules. The renewable power percentage for 2008 is set at 0.576%.

Clause 66 provides that the required gigawatt hours (GWh) of electricity from eligible renewable energy sources for a year is set out in Schedule 1. The Minister must have regard to the required GWh of electricity from renewable energy sources in each year when recommending a renewable power percentage for a year. The clause also allows Schedule 1 to be amended, by proclamation, to specify a different amount of electricity from eligible renewable energy sources in respect of a year. Such a proclamation must be made on or before 30 September in the year before the year in relation to which it has effect.

Part 5 Statements and surrender of certificates

Clause 67 requires a relevant entity that acquired electricity under a scheme acquisition during a year to lodge an audited energy acquisition statement for the year on or before 30 April in the following year. An energy acquisition statement must include the amount of electricity acquired under scheme acquisitions during the year, the value, in MWh, of certificates being surrendered, and any carried forward surplus.

Clause 68 requires the payment by the relevant entity of fees fixed under clause 112 for the surrender of certificates detailed in the energy acquisition statement under clause 67.

Clause 69 provides that a certificate cannot be surrendered unless:

- (a) it is valid, and
- (b) it was created before 31 January in the year following the year to which the energy acquisition statement relates, and
- (c) the relevant entity is recorded in the register of renewable energy certificates as the owner of the certificate.

Part 6 Civil enforcement

Division 1 Renewable energy shortfall penalty

Clause 70 provides that, if the Scheme Administrator believes on reasonable grounds that a relevant entity has a renewable energy shortfall for a year in which it made a scheme acquisition of electricity, the Scheme Administrator may issue a shortfall statement to the relevant entity. The shortfall statement must include the relevant entity's renewable energy shortfall for the year, the renewable energy shortfall penalty that the relevant entity is liable to pay, and the due date and method of payment of that penalty.

Clause 71 provides that if the renewable energy shortfall penalty is not paid in

accordance with a shortfall notice, the Scheme Administrator may apply to a court for a declaration that the relevant entity has a renewable energy shortfall for a year and an order requiring the relevant entity to pay the renewable energy shortfall penalty.

Division 2 Surrender of additional certificates where undertaking breached

Clause 72 empowers the Scheme Administrator to require a person to surrender certificates following the issue of a certificate surrender notice. Such a notice may be issued if the Scheme Administrator believes on reasonable grounds that the person has breached an undertaking given to the Scheme Administrator and the Scheme Administrator has suspended (as the case requires) the person's registration or the accreditation of the power station in relation to which certificates have been created in breach of the undertaking.

Clause 73 provides that if certificates are not surrendered in accordance with a certificate surrender notice, the Scheme Administrator may apply to a court for a declaration that an undertaking was breached and an order requiring the surrender to the Scheme Administrator of the number of certificates specified in the order.

Division 3 Surrender of additional certificates following improper creation of certificates

Clause 74 empowers the Scheme Administrator to order a person to surrender certificates. Such an order may be made only if a person is found guilty of an offence under clause 38 (Improper creation of certificates). The maximum penalty for failure to comply with an order is 600 penalty units and an additional 1 penalty unit for each certificate that the person fails to surrender in accordance with the order.

Part 7 Review of Scheme Administrator decisions

Clause 75 provides that an affected person in relation to a reviewable decision may request that the Scheme Administrator reconsider that decision. A request must be made within 30 business days after the making of the decision. Reviewable decisions are set out in the Table to subclause (2) and include refusal to register a person and refusal to accredit a power station. The Scheme Administrator will have 40 business days in which to reconsider its original decision and if it does not respond within that time it will be taken to have confirmed that decision.

Part 8 Role of Scheme Administrator

Clause 76 provides that the Minister is to appoint a person or body to exercise the functions of the Scheme Administrator under the proposed Act. The Scheme Administrator is to have the functions conferred or imposed on it by or under the proposed Act and under the terms of its appointment. More than one person or body may be appointed as the Scheme Administrator and different persons or bodies may be appointed to exercise particular functions of the Scheme Administrator. The Scheme Administrator is responsible for general administration of the proposed Act, including registration, accreditation, enforcement and reporting.

Clause 77 requires the Scheme Administrator to publish specified information, including a list of relevant entities with renewable energy certificate shortfalls. The number of certificates created in a year, and the number of certificates surrendered in a year, must also be published.

Clause 78 requires the Scheme Administrator to provide to the Minister a report on the operation of the proposed Act within the period of 4 months after 30 June in each year.

Part 9 Registers

Division 1 General

Clause 79 requires the Scheme Administrator to maintain various registers for the purposes of the proposed Act.

Division 2 Register of registered persons

Clause 80 provides that the register of registered persons must include the name and

registration number of each registered person and details of any suspension of registration.

Division 3 Register of accredited power stations

Clause 81 provides that the register of accredited power stations must include the name and identification code for each accredited power station, the name of the nominated person, and details as to capacity.

Division 4 Register of renewable energy certificates

Clause 82 provides that the register of renewable energy certificates must include details of the creation and ownership of each certificate.

Division 5 Register of applications for accredited power stations

Clause 83 provides that the register of applications for accredited power stations must include details of applications for accreditation.

Division 6 Form of registers

Clause 84 provides that registers are to be maintained electronically and must be available for inspection on the Scheme Administrator's internet site. Additions to the registers must be posted within 20 business days.

Part 10 Information-gathering powers

Clause 85 empowers the Scheme Administrator to require production of information and documents relevant to the operation of the proposed Act.

Clause 86 creates an offence of failing, without reasonable excuse, to comply with a notice under clause 85. The maximum penalty is 60 penalty units for an individual or 240 penalty units for a body corporate.

Clause 87 provides for protection against self-incrimination.

Clause 88 empowers the Scheme Administrator to inspect and copy documents produced in response to a notice under clause 85.

Clause 89 provides for the Scheme Administrator to retain documents provided in response to a notice under clause 85.

Part 11 Powers of authorised officers

Division 1 Appointment of authorised officers and identity cards

Clause 90 provides for the Scheme Administrator to appoint persons with appropriate skills, qualifications and experience as authorised officers.

Clause 91 requires the Scheme Administrator to issue identity cards to authorised officers and also requires authorised officers to carry and produce their identity cards.

Division 2 Powers of authorised officer

Subdivision 1 When may powers be exercised

Clause 92 provides that an authorised officer may exercise his or her powers only to the extent reasonably necessary for substantiating information or determining compliance with the proposed Act.

Subdivision 2 Monitoring powers

Clause 93 provides that an authorised officer may enter premises at any reasonable time to exercise monitoring powers (see clause 97). Entry must be with the occupier's consent (see also clause 95) or pursuant to a search warrant (see also clause 96).

Clause 94 requires an authorised officer to inform the occupier of the purpose of entry.

Clause 95 provides for an acknowledgement of consent to entry to be obtained from an occupier. If an acknowledgement is not obtained, entry must be presumed to be without consent (excluding entry pursuant to a search warrant under Division 4), until the contrary is proved.

Clause 96 applies Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities Act 2002* if premises are entered under a search warrant. Among

other things, Division 4 of Part 5 of that Act provides for the use of reasonable force to enter premises and enables a person to execute a search warrant with the aid of assistants.

Clause 97 sets out the monitoring powers of authorised officers, including powers to search premises for any thing that may relate to the creation or transfer of certificates or to scheme acquisitions, to take photographs or make video or audio recordings, to inspect, and take extracts from or make copies of, documents, to secure any thing found until a warrant to seize that thing is obtained. The monitoring powers also include power to operate equipment to determine whether it contains relevant information and power to operate facilities to put such information into documentary or electronic form.

Subdivision 3 Powers to ask questions and seek production of documents

Clause 98 empowers an authorised officer to ask for relevant information or require the production of a relevant document where he or she has entered premises with consent.

Clause 99 empowers an authorised officer to require relevant information or require the production of a relevant document where he or she has entered premises under warrant.

Clause 100 creates an offence of failing, without reasonable excuse, to answer a question or produce a document under clause 99. The maximum penalty is 60 penalty units.

Clause 101 provides for protection against self-incrimination.

Division 3 Occupiers' rights and responsibilities

Clause 102 provides that an occupier, or the representative of an occupier, is entitled to be present during the execution of a search warrant, so long as that person does not impede execution of the warrant.

Clause 103 requires the occupier, or the occupier's representative, to assist an authorised officer executing a warrant. Failure to do so will be an offence, with a maximum penalty of 60 penalty units for an individual or 240 penalty units for a body corporate.

Division 4 Search warrants

Clause 104 allows an authorised officer to apply to an authorised officer under the *Law Enforcement (Powers and Responsibilities) Act 2002* for the issue of a search warrant. The authorised officer may issue the warrant if he or she is satisfied that access to premises is reasonably necessary to substantiate information or determine compliance.

Part 12 Confidentiality

Clause 105 creates offences for the disclosure of confidential or commercially sensitive information (maximum penalty of 60 penalty units), or the use of such information to obtain a pecuniary advantage (maximum penalty of 120 penalty units). Subclause (3) provides for circumstances in which information may be disclosed or used (for example, with the consent of the person who supplied the information or where the information is in the public domain).

Clause 106 provides that the Scheme Administrator is not prevented from divulging or communicating information to certain persons, including a Minister, a corresponding regulator, a public authority, NEMMCO, VENCORP, Sustainability Victoria, and certain relevant Commonwealth entities.

Part 13 General

Division 1 General offences

Clause 107 creates the offence of knowingly providing false or misleading information or documents to the Scheme Administrator. The maximum penalty is 60 penalty units for an individual or 240 penalty units for a body corporate.

Clause 108 creates the offence of failing to provide documents to the Scheme

Administrator as required. The maximum penalty is 60 penalty units for an individual or 240 penalty units for a body corporate.

Clause 109 provides that, if a body corporate commits an offence, an officer (as defined) of the body corporate will also be guilty of the offence, and liable to the penalty, if he or she was knowingly authorised or permitted the commission of the offence.

Division 2 Evidence and records

Clause 110 is an evidentiary provision with respect to Scheme Administrator documents.

Clause 111 requires registered persons and relevant entities to keep records, for five years, of transactions and other activities pursuant to the proposed Act including records of amounts of electricity generated, certificates created and amounts of electricity acquired. The maximum penalty for a contravention of this requirement is 60 penalty units for an individual or 240 penalty units for a body corporate.

Division 3 Fees

Clause 112 provides for the fixing of fees, including fees for registration of certificates, review of decisions, lodging of statements and surrender of certificates. The Minister will fix fees, taking into account the Scheme Administrator's costs and expenses, and after consultation with any specified person or body prescribed by regulations. Fees must be published in the Gazette and on the Scheme Administrator's internet site.

Division 4 Scheme rules

Clause 113 provides for the making of rules by the Minister, including rules with respect to eligibility of relevant power stations for accreditation, eligible renewable energy sources, the amount of energy generated by an accredited power station, electricity generation returns and audit, scheme acquisitions, annual energy acquisition statements and audit and records to be kept. Rules must be published in the Gazette and made available on the Scheme Administrator's internet site. Rules must also be tabled in Parliament and are subject to disallowance.

Division 5 Miscellaneous

Clause 114 provides that an arrangement between a relevant entity and a trade exposed electricity intensive user for the supply of electricity must not require the trade exposed electricity intensive user to contribute to any of the relevant entity's costs of meeting the entity's obligations under the proposed Act. The maximum penalty for a contravention of this requirement is 60 penalty units for an individual or 240 penalty units for a body corporate. A trade exposed electricity intensive user is a person or body that is determined by the Minister, by order published in the Gazette, to be a trade exposed electricity intensive user.

Clause 115 provides that an offence under the proposed Act or the regulations may be dealt with summarily by a Local Court or the Supreme Court in its summary jurisdiction and places limitations on the penalty that may be imposed in proceedings brought in a Local Court.

Clause 116 permits the Minister to delegate his or her functions under the proposed Act.

Clause 117 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 118 is a formal provision that gives effect to the amendment to the *Law Enforcement (Powers and Responsibilities) Act 2002* set out in Schedule 2.

Clause 119 is a formal provision that gives effect to the savings, transitional and other provisions set out in Schedule 3.

Clause 120 provides for the review of the proposed Act in 5 years.

Schedule 1 Required GWh of electricity from eligible renewable energy sources

Schedule 1 sets out the required GWh of electricity from eligible renewable energy

sources (see clause 66).

**Schedule 2 Consequential amendment of Law
Enforcement (Powers and
Responsibilities) Act 2002**

Schedule 2 contains an amendment to the *Law Enforcement (Powers and Responsibilities) Act 2002* consequent on the enactment of the proposed Act.

**Schedule 3 Savings, transitional and other
provisions**

Schedule 3 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.