



New South Wales

Renewable Energy (New South Wales) Bill 2007

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.



New South Wales

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New South Wales

Renewable Energy (New South Wales) Bill 2007

No. , 2007

A Bill for

An Act to establish a mandatory renewable energy target in relation to all electricity consumed in New South Wales; and for other purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Renewable Energy (New South Wales) Act 2007*. 4

2 Commencement 5

(1) This Act commences on a day or days to be appointed by proclamation, 6
subject to subsection (2). 7

(2) If a provision of this Act has not commenced by 1 January 2008, it is 8
taken to have commenced on that day. 9

3 Definitions 10

(1) In this Act: 11

accredited power station means a relevant power station accredited 12
under Division 3 of Part 2. 13

arrangement means: 14

(a) any agreement, arrangement, understanding, promise or 15
undertaking, whether express or implied and whether or not 16
enforceable, or intended to be enforceable, by legal proceedings, 17
and 18

(b) any scheme, plan, proposal, action, course of action or course of 19
conduct. 20

business day means a day that is not a Saturday, a Sunday, or a public 21
holiday or bank holiday throughout New South Wales. 22

carried forward surplus has the meaning given by section 64. 23

certificate means a renewable energy certificate created under Division 24
4 of Part 2. 25

certificate surrender notice means a notice issued under section 72. 26

corresponding Act means: 27

(a) the *Renewable Energy (Electricity) Act 2000* of the 28
Commonwealth, or 29

(b) the *Victorian Renewable Energy Act 2006* of Victoria, or 30

(c) any Act of the Commonwealth, a State or a Territory declared by 31
the regulations to be an Act that corresponds to this Act. 32

<i>corresponding regulator</i> means:	1
(a) in relation to the <i>Renewable Energy (Electricity) Act 2000</i> of the Commonwealth, the Regulator within the meaning of section 5 (1) of that Act, or	2 3 4
(b) in relation to the <i>Victorian Renewable Energy Act 2006</i> of Victoria, the ESC within the meaning of that Act, or	5 6
(c) in relation to any other corresponding Act, the person or body prescribed by the regulations.	7 8
<i>corresponding scheme participant</i> means:	9
(a) a person registered under a corresponding Act, or	10
(b) a nominated person within the meaning of a corresponding Act, or	11 12
(c) a person declared by the regulations to be a corresponding scheme participant.	13 14
<i>corresponding scheme power station</i> means a power station that is accredited or provisionally accredited under a corresponding Act.	15 16
<i>Department</i> means the Department of Water and Energy.	17
<i>electronic signature</i> of a person means the person's unique identification in an electronic form that is approved by the Scheme Administrator under subsection (2).	18 19 20
<i>eligible renewable energy source</i> has the meaning given by section 22.	21
<i>energy acquisition statement</i> has the meaning given by section 67.	22
<i>excluded acquisition</i> has the meaning given by section 56.	23
<i>exercise</i> a function includes perform a duty.	24
<i>function</i> includes a power, authority or duty.	25
<i>GWh</i> means gigawatt hour.	26
<i>MW</i> means megawatt.	27
<i>MWh</i> means megawatt hour.	28
<i>NEMMCO</i> means the National Electricity Market Management Company Limited (ACN 072 010 327).	29 30
<i>nominated person</i> , in relation to an accredited power station, means:	31
(a) if no approvals have been given under section 48 in relation to the accredited power station—the person who made the application for accreditation, or	32 33 34
(b) if one or more approvals have been given under that section in relation to the accredited power station—the last person so approved.	35 36 37
<i>notional scheme acquisition</i> has the meaning given by section 55.	38

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

pre-scheme capacity, in relation to an accredited power station, means that part of the capacity of the power station to generate electricity, measured in MW, that is specified by the Scheme Administrator under section 17 to be pre-scheme capacity.

premises includes the following:

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

produce includes permit access to.

protected information means information disclosed to or obtained by a corresponding regulator, or any other person exercising functions under a corresponding Act, in the course of exercising those functions.

register of accredited power stations means the register of accredited power stations maintained by the Scheme Administrator under Part 9.

register of applications for accredited power stations means the register of applications for accredited power stations maintained by the Scheme Administrator under Part 9.

register of registered persons means the register of registered persons maintained by the Scheme Administrator under Part 9.

register of renewable energy certificates means the register of renewable energy certificates maintained by the Scheme Administrator under Part 9.

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

registration number has the meaning given by section 11.

relevant entity has the meaning given by section 60.

relevant power station means 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 certificate shortfall has the meaning given by section 64.

renewable energy shortfall penalty has the meaning given by section 62.

renewable power percentage means the percentage fixed under section 65.

required GWh of electricity from eligible renewable energy sources has the meaning given by section 66.

required renewable energy has the meaning given by section 64.

<i>scheme acquisition</i> means:	1
(a) a standard scheme acquisition, or	2
(b) a notional scheme acquisition,	3
but does not include an excluded acquisition.	4
<i>Scheme Administrator</i> means a person or body appointed for the time	5
being under this Act to exercise any of the functions of a Scheme	6
Administrator under this Act.	7
<i>scheme capacity</i> , in relation to an accredited power station, means that	8
part of the capacity of the power station to generate electricity,	9
measured in MW, that is specified by the Scheme Administrator under	10
section 17 to be scheme capacity.	11
<i>scheme rules</i> means rules made by the Minister under section 113.	12
<i>search warrant</i> means a warrant issued under section 104.	13
<i>shortfall penalty rate</i> for a year means the amount determined as	14
provided for by section 63.	15
<i>small generation unit</i> means a device that:	16
(a) generates electricity using an eligible renewable energy source,	17
and	18
(b) is a <i>Market Generator</i> within the meaning of the <i>National</i>	19
<i>Electricity Rules</i> , as in force from time to time, referred to in the	20
<i>National Electricity (NSW) Law</i> , and	21
(c) is specified by the scheme rules to be a small generation unit.	22
<i>stakeholder</i> , in relation to an accredited power station, means:	23
(a) a person who operates the accredited power station (whether	24
alone or together with one or more other persons), or	25
(b) a person who owns all, or a part, of the accredited power station	26
(whether alone or together with one or more other persons).	27
<i>standard scheme acquisition</i> has the meaning given by section 54.	28
<i>trade exposed electricity intensive user</i> has the meaning given by	29
section 114.	30
<i>warrant premises</i> , in relation to a search warrant, means the premises	31
to which the warrant relates.	32
<i>year</i> means calendar year.	33
(2) The Scheme Administrator may, in writing, approve an electronic form	34
for the purposes of the definition of <i>electronic signature</i> in subsection	35
(1).	36

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- (3) In this Act, a reference to a renewable energy certificate created under a corresponding Act includes a reference to a certificate, credit or other thing created under a corresponding Act that confers a similar benefit to the benefit conferred by a renewable energy certificate under this Act. 1
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- (4) Notes included in this Act do not form part of this Act. 5

4 Objects 6

The objects of this Act are: 7

- (a) to establish a mandatory renewable energy target in relation to all electricity consumed in New South Wales, and 8
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- (b) to increase the consumption of renewable energy in New South Wales which will reduce the greenhouse gas emissions associated with the production and use of electricity, and 10
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- (c) to encourage improvement in the renewable energy industry's capacity to provide renewable energy at a more competitive price. 13
14
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5 Outline of Act 16

- (1) This section provides an outline of the New South Wales renewable energy target scheme established by this Act. This Act 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. 17
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- (2) 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. 24
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- (3) 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. 27
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- (4) To comply with that 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. 32
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(5)	Failure to surrender sufficient certificates to meet a target may result in the imposition of a penalty.	1 2
(6)	This section is explanatory only and does not affect any other provision of this Act, or any other Act, or any instrument made under this or any other Act.	3 4 5
6	Crown to be bound	6
	This Act binds the Crown in right of New South Wales and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.	7 8 9
7	Extra-territorial operation	10
	It is the intention of the Parliament that the operation of this Act should, so far as possible, include operation in relation to the following:	11 12
(a)	land situated outside New South Wales, whether in or outside Australia,	13 14
(b)	things situated outside New South Wales, whether in or outside Australia,	15 16
(c)	acts, transactions and matters done, entered into or occurring outside New South Wales, whether in or outside Australia,	17 18
(d)	things, acts, transactions and matters, (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of the Commonwealth, another State, a Territory or a foreign country.	19 20 21 22

Part 2 Renewable energy certificates

Division 1 Registration of persons

8 Who may apply to be registered?

- (1) Any person may apply to the Scheme Administrator to be registered under this Act.
- (2) An application must:
 - (a) be made in a form and manner required by the Scheme Administrator, and
 - (b) contain any information required by the Scheme Administrator, and
 - (c) be accompanied by any documents required by the Scheme Administrator, and
 - (d) be accompanied by, if required by the Scheme Administrator:
 - (i) evidence of the kind referred to in section 9 (1), and
 - (ii) a relevant undertaking referred to in section 9 (2) or (3), and
 - (e) be accompanied by the relevant fee (if any) fixed under section 112.

9 Scheme Administrator may require further information and undertakings from applicants

- (1) The Scheme Administrator may require from an applicant under section 8 who is a corresponding scheme participant, evidence, in writing, that the applicant has agreed with the relevant corresponding regulator for the corresponding regulator to divulge or communicate to the Scheme Administrator:
 - (a) protected information concerning the applicant, or
 - (b) any other information held by the corresponding regulator.
- (2) The Scheme Administrator may require from an applicant under section 8 who is a corresponding scheme participant an undertaking, in such terms as the Scheme Administrator may require, to the effect prescribed by the regulations.
- (3) The Scheme Administrator may require from an applicant under section 8 who is not a corresponding scheme participant an undertaking, in such terms as the Scheme Administrator may require, to the effect prescribed by the regulations.

10	Scheme Administrator to approve or refuse application	1
(1)	If the Scheme Administrator receives an application that is properly made under section 8, the Scheme Administrator must approve the application.	2 3 4
(2)	However:	5
(a)	if the person is already registered, the Scheme Administrator must refuse the application, or	6 7
(b)	if a person's registration has been suspended under Division 8, the person cannot be registered during the period of the suspension.	8 9 10
11	Scheme Administrator to allocate registration numbers	11
	If the Scheme Administrator approves an application, the Scheme Administrator must allocate the applicant a unique registration number and advise the applicant of the number.	12 13 14
Division 2	Provisional accreditation of power stations	15
12	Application for provisional accreditation of a relevant power station	16
(1)	A registered person may apply to the Scheme Administrator for provisional accreditation of the proposed components of an electricity generation system that the person considers would, if assembled, be a single relevant power station.	17 18 19 20
(2)	An application must:	21
(a)	be made in a form and manner required by the Scheme Administrator, and	22 23
(b)	specify the proposed components, and	24
(c)	list the eligible renewable energy sources from which electricity is intended to be generated, and	25 26
(d)	contain any other information required by the Scheme Administrator, and	27 28
(e)	be accompanied by any documents required by the Scheme Administrator, and	29 30
(f)	be accompanied by the relevant fee (if any) fixed under section 112.	31 32
(3)	The Scheme Administrator may also require from an applicant under this section:	33 34
(a)	who is a corresponding scheme participant, and	35

(b)	whose application is in respect of components of an electricity generation system that are a corresponding scheme power station, evidence, in writing, that the applicant has agreed with the relevant corresponding regulator for the corresponding regulator to divulge or communicate to the Scheme Administrator:	1 2 3 4 5
(c)	information about the corresponding scheme power station, and	6
(d)	protected information concerning the applicant, and	7
(e)	any other information held by the corresponding regulator.	8
(4)	The Scheme Administrator may also require from an applicant under this section who is an applicant for accreditation or provisional accreditation under a corresponding Act evidence, in writing, that the applicant has agreed with the relevant corresponding regulator for the corresponding regulator to divulge or communicate to the Scheme Administrator:	9 10 11 12 13 14
(a)	information about the components of the electricity generation system that are also the subject of an application under the corresponding Act, and	15 16 17
(b)	protected information concerning the applicant, and	18
(c)	any other information held by the relevant corresponding regulator.	19 20
13	Scheme Administrator may give provisional accreditation	21
(1)	If:	22
(a)	the Scheme Administrator receives an application that is properly made under section 12, and	23 24
(b)	the Scheme Administrator is satisfied that some or all of the proposed components of the system would, if assembled, comprise a relevant power station for the purposes of this Act:	25 26 27
	the Scheme Administrator must, by written notice given to the applicant:	28 29
(c)	specify which of those proposed components (<i>the provisional components</i>) would, if assembled, comprise a relevant power station for the purposes of this Act, and	30 31 32
(d)	specify that, if an application is properly made under section 15 in relation to the relevant power station:	33 34
(i)	the Scheme Administrator will decide that the components specified in that application comprise a relevant power station for the purposes of this Act if the Scheme Administrator is satisfied that they are not materially different from the provisional components, and	35 36 37 38 39

(ii)	the relevant power station will be eligible for accreditation if section 17 (3) is satisfied.	1 2
(2)	If:	3
(a)	the Scheme Administrator receives an application that is properly made under section 12, and	4 5
(b)	the Scheme Administrator is not satisfied that some or all of the proposed components of the system would, if assembled, comprise a relevant power station for the purposes of this Act,	6 7 8
	the Scheme Administrator must, by written notice given to the applicant, refuse the application.	9 10
(3)	Scheme rules made for the purposes of section 17, in relation to deciding the components of a relevant power station, apply in a corresponding way to this section.	11 12 13
14	Time limit for deciding applications	14
(1)	The Scheme Administrator must decide an application that is properly made under section 12 within:	15 16
(a)	the period of 40 business days beginning on the day the Scheme Administrator received the application, or	17 18
(b)	if, before the end of that period, the Scheme Administrator and applicant agree to a longer period—that longer period.	19 20
(2)	However, if, during the period applicable under subsection (1), the Scheme Administrator, for the purpose of deciding the application, requests information from an applicant, the period between the request and the giving of the information must be disregarded for the purpose of calculating the period applicable under subsection (1).	21 22 23 24 25
(3)	If the Scheme Administrator has not decided the application within the period applicable under this section, the Scheme Administrator is taken, at the end of that period, to have made a decision under section 13 refusing the application.	26 27 28 29
Division 3	Accreditation of power stations	30
15	Application for accreditation	31
(1)	A registered person may apply to the Scheme Administrator for accreditation, as an accredited power station, of the components of an electricity generation system that the person considers are a single relevant power station if the person:	32 33 34 35
(a)	operates those components (whether alone or together with one or more other persons), or	36 37

(b)	owns all, or a part, of those components (whether alone or together with one or more other persons).	1 2
(2)	The application must:	3
(a)	be made in a form and manner required by the Scheme Administrator, and	4 5
(b)	specify those components of the system that the applicant considers are a single relevant power station, and	6 7
(c)	specify each other person (if any) who:	8
(i)	operates those components (whether alone or together with one or more other persons), or	9 10
(ii)	owns all, or a part, of those components (whether alone or together with one or more other persons), and	11 12
(d)	list:	13
(i)	the eligible renewable energy sources from which electricity is intended to be generated, and	14 15
(ii)	the estimated average annual output from each source (in MWh) listed under subparagraph (i), and	16 17
(iii)	the possible scheme capacity, and	18
(iv)	the estimated average annual output from each source (in MWh) listed under subparagraph (i) utilising the possible scheme capacity listed under subparagraph (iii), and	19 20 21
(e)	contain any other information required by the Scheme Administrator, and	22 23
(f)	be accompanied by any documents required by the Scheme Administrator, and	24 25
(g)	if required by the Scheme Administrator, be accompanied by:	26
(i)	evidence of the kind referred to in section 16 (2), and	27
(ii)	a relevant undertaking referred to in section 16 (3) or 16 (4), and	28 29
(h)	be accompanied by a statement in writing from each other person (if any) specified under paragraph (c) indicating that the other person agrees to the making of the application, and	30 31 32
(i)	be accompanied by the relevant fee (if any) fixed under section 112.	33 34
16	Scheme Administrator may require further information and undertakings from applicants	35 36
(1)	Subsections (2) and (3) apply to an applicant under section 15:	37
(a)	who is a corresponding scheme participant, and	38

(b)	whose application is in respect of components of an electricity generation system that are a corresponding scheme power station.	1 2
(2)	The Scheme Administrator may require from the applicant evidence, in writing, that:	3 4
(a)	the applicant has agreed with the relevant corresponding regulator for the corresponding regulator to divulge or communicate to the Scheme Administrator information about the corresponding scheme power station, and	5 6 7 8
(b)	the applicant has agreed with the relevant corresponding regulator for the corresponding regulator to divulge or communicate to the Scheme Administrator:	9 10 11
(i)	protected information concerning the applicant, or	12
(ii)	any other information held by the corresponding regulator, and	13 14
(c)	the persons specified in the application in accordance with section 15 (2) (c) have agreed with the applicant that they will each agree with the relevant corresponding regulator for the corresponding regulator to divulge or communicate to the Scheme Administrator:	15 16 17 18 19
(i)	protected information concerning them, or	20
(ii)	any other information held by the corresponding regulator.	21
(3)	The Scheme Administrator may require from the applicant an undertaking, in such terms as the Scheme Administrator may require, to the effect prescribed by the regulations.	22 23 24
(4)	The Scheme Administrator may require from an applicant under section 15 who is not a corresponding scheme participant at the time of the application an undertaking, in such terms as the Scheme Administrator may require, to the effect prescribed by the regulations.	25 26 27 28
17	Scheme Administrator to decide certain matters	29
(1)	If the Scheme Administrator receives an application that is properly made under section 15, the Scheme Administrator must:	30 31
(a)	decide, in accordance with the scheme rules, which components of the system comprise a relevant power station for the purposes of this Act, and	32 33 34
(b)	decide whether the relevant power station is eligible for accreditation.	35 36
	Note. A decision under subsection (1) (a) may be varied: see Division 10.	37

-
- (2) If: 1
- (a) the Scheme Administrator gave a person a notice under section 13 (1) in relation to the relevant power station, and 2
 - (b) the Scheme Administrator is satisfied that the components specified in the application under section 15 are not materially different from the provisional components specified under section 13 (1), 3
- the Scheme Administrator must decide, under subsection (1) (a) of this section, that the components specified in the application under section 15 comprise a relevant power station for the purposes of this Act. 4
- (3) A relevant power station is eligible for accreditation if: 5
- (a) some or all of the electricity generated by the relevant power station is generated from an eligible renewable energy source, and 6
 - (b) the relevant power station satisfies any requirements specified in the scheme rules. 7
- (4) However, a relevant power station is not eligible for accreditation if the Scheme Administrator is satisfied that a previous decision under subsection (1) (a) should be varied to include the components of the system specified in the application for accreditation. 8
- (5) If the Scheme Administrator decides that the relevant power station is eligible for accreditation, the Scheme Administrator must also specify in its decision: 9
- (a) in accordance with subsection (6), the pre-scheme capacity (if any) of the relevant power station, and 10
 - (b) in accordance with subsection (7), the scheme capacity of the relevant power station, and 11
 - (c) any energy sources used by the relevant power station that are not eligible renewable energy sources. 12
- (6) The Scheme Administrator must, in accordance with the scheme rules, specify that part of the power station's capacity (if any) that has been utilised to generate electricity on a commercial basis before 1 January 2007. 13
- (7) The Scheme Administrator must, in accordance with the scheme rules, specify the scheme capacity of the power station, being the total of the following: 14
- (a) additional capacity, being the amount (if any) by which the power station's capacity to generate electricity, measured in MW, exceeds the power station's pre-scheme capacity, 15

(b)	fossil fuel replacement capacity, being the amount (if any) of the power station's capacity to generate electricity that is generated using eligible renewable energy sources, measured in MW, and which immediately before 1 January 2007 was generated using fossil fuel (not being capacity that is counted under paragraph (a)).	1 2 3 4 5 6
(8)	To avoid doubt:	7
(a)	the scheme rules may provide that a relevant power station includes components that are integral to the operation of the relevant power station or to the generation of electricity by the relevant power station, and	8 9 10 11
(b)	the pre-scheme capacity for an accredited power station may be nil, and	12 13
(c)	a power station's fossil fuel replacement capacity may be counted towards scheme capacity even though it is not additional capacity.	14 15 16
(9)	In this section:	17
	commercial basis , in relation to the generation of electricity, means the generation of electricity:	18 19
(a)	for sale to another person for the primary purpose of earning revenue,	20 21
(b)	primarily for use by the person generating it or a related body corporate.	22 23
	fossil fuel includes materials or waste products derived from fossil fuel.	24
	related body corporate has the same meaning as in section 50 of the <i>Corporations Act 2001</i> of the Commonwealth.	25 26
18	Scheme Administrator to approve or refuse application	27
	If the Scheme Administrator decides that a relevant power station is eligible for accreditation, the Scheme Administrator must approve the application. In any other case, the Scheme Administrator must refuse the application.	28 29 30 31
	Note. The accreditation of an accredited power station may be suspended: see Division 11.	32 33
19	Time limit for deciding applications	34
(1)	The Scheme Administrator must decide an application that is properly made under section 15 within:	35 36
(a)	the period of 40 business days beginning on the day the Scheme Administrator received the application, or	37 38

(b)	if, before the end of that period, the Scheme Administrator and applicant agree to a longer period—that longer period.	1 2
(2)	However, if, during the period applicable under subsection (1), the Scheme Administrator, for the purpose of deciding the application, requests information from an applicant, the period between the request and the giving of the information must be disregarded for the purpose of calculating the period applicable under subsection (1).	3 4 5 6 7
(3)	If the Scheme Administrator has not decided the application within the period applicable under subsection (1), the Scheme Administrator is taken, at the end of that period, to have made a decision under section 18 refusing the application.	8 9 10 11
20	Nominated person for accredited power station	12
	If the Scheme Administrator approves an application, the applicant becomes the nominated person for the accredited power station.	13 14
	Note. The nominated person for the accredited power station is able to create certificates for electricity generated by the accredited power station: see section 26. The nominated person may change: see Division 9.	15 16 17
21	Scheme Administrator to allocate identification codes	18
	If the Scheme Administrator approves an application, the Scheme Administrator must allocate the accredited power station a unique identification code and advise the applicant of the code.	19 20 21
22	What is an eligible renewable energy source?	22
	The following energy sources are <i>eligible renewable energy sources</i> :	23
(a)	hydro,	24
(b)	wave,	25
(c)	tide,	26
(d)	ocean,	27
(e)	wind,	28
(f)	solar (other than solar energy used in a device primarily for heating water),	29 30
(g)	geothermal-aquifer,	31
(h)	hot dry rock,	32
(i)	energy crops,	33
(j)	wood waste,	34
(k)	agricultural waste,	35
(l)	waste from processing of agricultural products,	36

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- | | |
|--|--------|
| (m) food waste, | 1 |
| (n) food processing waste, | 2 |
| (o) bagasse, | 3 |
| (p) black liquor, | 4 |
| (q) biomass-based components of municipal solid waste, | 5 |
| (r) landfill gas, | 6 |
| (s) sewage gas and biomass-based components of sewage, | 7 |
| (t) any other energy source specified by the regulations under section 24. | 8
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23 What is not an eligible renewable energy source? 10

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|---|----------------------------|
| (1) Despite section 22, the following energy sources are not eligible renewable energy sources: | 11
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| (a) fossil fuel, | 13 |
| (b) materials or waste products derived from fossil fuel, | 14 |
| (c) native forest bio-material. | 15 |
| (2) In this section: | 16 |
| <i>native forest bio-material</i> means the bio-material comprised in any tree, of a species that is indigenous to Australia, other than: | 17
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| (a) bio-material obtained from a plantation in New South Wales in the course of operations that are authorised under the <i>Plantations and Reafforestation Act 1999</i> or in the course of operations that do not require the plantation to be authorised under that Act, or | 19
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| (b) bio-material obtained from a plantation outside of New South Wales in the course of operations that are authorised under an Act of another State or a Territory that is declared by the regulations to be an Act that corresponds to the <i>Plantations and Reafforestation Act 1999</i> , or | 23
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| (c) sawdust or other sawmill waste, or | 28 |
| (d) waste arising from wood processing or the manufacture of wooden products, other than waste arising from activities (such as woodchipping or the manufacture of railway sleepers) carried out at the location at which the tree is harvested. | 29
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24 Specification of energy sources as eligible renewable energy sources 33

The regulations may specify an energy source (other than an energy source specified in section 22 (a)–(s) or section 23) to be an eligible renewable energy source.	34 35 36
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25	Scheme rules may provide for or in relation to meaning of energy sources	1
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(1)	For the purposes of this Act, the scheme rules may provide that an energy source referred to in section 22 or 23 (other than an energy source specified in section 23 (1) (c)) has the meaning specified in the scheme rules.	3
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(2)	For the purposes of this Act, the scheme rules may make provision for and in relation to limiting the meaning of an energy source referred to in section 22.	7
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(3)	For the purposes of this Act, the scheme rules may make provision for and in relation to extending the meaning of an energy source referred to in section 23.	10
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Division 4	Creation of certificates	13
Subdivision 1	Electricity generation	14
26	Creating certificates for additional renewable electricity	15
(1)	The nominated person for an accredited power station may create a certificate for each whole MWh of electricity generated by the power station utilising scheme capacity:	16
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(a)	on and from the day on which this section commences or the day on which electricity is first generated utilising scheme capacity (whichever is the later), and	19
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(b)	subject to sections 28 and 37, until the day that is 15 elapsed years after the day referred to in paragraph (a).	22
		23
(2)	A certificate must not be created in respect of a whole MWh of electricity generated partly in one year and partly in the following year utilising scheme capacity.	24
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		26
(3)	If the amount of electricity generated by an accredited power station during a year utilising scheme capacity is less than 1 MWh but greater than or equal to 0.5 MWh, the nominated person for the power station may create 1 certificate in respect of the electricity generated during the year.	27
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(4)	The amount of electricity generated by an accredited power station utilising scheme capacity is to be worked out in accordance with the scheme rules.	32
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		34
(5)	Electricity is to be excluded from all calculations under this section:	35
(a)	to the extent that the electricity was generated using any energy sources that are not eligible renewable energy sources, or	36
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(b)	to the extent that the electricity was generated during any period of suspension of the accreditation of the accredited power station under Division 11.	1 2 3
(6)	The nominated person for an accredited power station must not create any certificates during any period of suspension of the person's registration under Division 8.	4 5 6
	Note. See also section 38 (Improper creation of certificates).	7
27	When certificates may be created	8
	A certificate may be created at any time after the generation of the final part of the electricity in relation to which it is created and before the end of the year after the year of generation.	9 10 11
	Note. For the offence related to the improper creation of certificates, see section 38.	12 13
28	Certificates must not be created if certificates already created under other scheme	14 15
(1)	A nominated person must not create a certificate for electricity generated if:	16 17
(a)	a renewable energy certificate under a corresponding Act has been created in respect of the generation of that electricity, or	18 19
(b)	an abatement certificate under Part 8A of the <i>Electricity Supply Act 1995</i> has been created in respect of the generation of that electricity, or	20 21 22
(c)	a certificate, credit or other thing conferring a similar benefit to the benefit conferred by a renewable energy certificate under this Act has been created in respect of the generation of that electricity under a voluntary renewable energy scheme.	23 24 25 26
(2)	A nominated person, in relation to a power station, must not create a certificate for electricity generated by the power station if the electricity was generated utilising scheme capacity (within the meaning of a corresponding Act) specified in relation to that power station under the corresponding Act and more than 15 years have elapsed since the day on which electricity was first generated utilising that scheme capacity.	27 28 29 30 31 32
(3)	The scheme rules may make further provision for scheme switching (that is, the participation in the scheme provided for by this Act by a person who is a participant in another renewable energy scheme).	33 34 35
(4)	Without limiting subsection (3), the scheme rules may prohibit or restrict the creation of certificates under this Act by a person who is a participant in another renewable energy scheme.	36 37 38

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- (5) For the purposes of this section, a person is a *participant in another renewable energy scheme* if:
- (a) the person has been or is a corresponding scheme participant, or
 - (b) the person has been or is a participant in the scheme provided for by Part 8A of the *Electricity Supply Act 1995* or a voluntary renewable energy scheme, or
 - (c) the power station in relation to which the person is a nominated person is a corresponding scheme power station or is or has been accredited under a scheme referred to in paragraph (b).
- (6) For the purposes of this section, *voluntary renewable energy scheme* means a voluntary scheme to encourage the generation or consumption (or both) of renewable energy that is determined by the Minister, by order published in the Gazette, to be a voluntary renewable energy scheme for the purposes of this Act.
- 29 Electricity generation returns**
- (1) The nominated person for an accredited power station must give an electricity generation return for a year to the Scheme Administrator on or before:
- (a) 14 March in the following year, or
 - (b) any later day allowed by the Scheme Administrator.
- (2) The return must include details of:
- (a) the amount of electricity generated by the power station during the year utilising scheme capacity, and
 - (b) the amount of that electricity that was generated during the year using eligible renewable energy sources, and
 - (c) the number of certificates created during the year in respect of the electricity generated by the power station during the year utilising scheme capacity, and
 - (d) the number of certificates created during the year in respect of any electricity generated by the power station during the previous year utilising scheme capacity, and
 - (e) any other information specified by the scheme rules.
- (3) A return must also be audited in accordance with the scheme rules before it is given to the Scheme Administrator.
- (4) An electricity generation return is not required in relation to a year in which a power station was not accredited.

Subdivision 2 Small generation units
30 When a certificate may be created

- (1) If a small generation unit is installed on or after 1 January 2007, certificates may be created on or from the day on which the small generation unit is installed or the day on which this section commences (whichever is the later).
- (2) The scheme rules may make provision in relation to the time at which a small generation unit is taken to have been installed.
- (3) The scheme rules may make provision in relation to:
 - (a) the time when a right to create certificates in relation to a small generation unit arises, and
 - (b) the period within which certificates may be created in relation to a small generation unit.

31 How many certificates may be created

The number of certificates (each representing 1 MWh) that may be created in relation to a small generation unit is to be determined in accordance with the scheme rules.

32 Who may create a certificate?

- (1) The owner of the small generation unit at the time that a right to create a certificate or certificates arises in relation to the small generation unit is entitled to create the certificate or certificates.
- (2) However, the owner may, by written notice, and in accordance with the scheme rules, assign the right to create the certificate or certificates to another person. If the owner does this, the owner is not entitled to create the certificate or certificates but the person to whom the right was assigned is entitled to create the certificate or certificates.
- (3) Despite subsections (1) and (2) a person who is not registered must not create a certificate that relates to the small generation unit.

33 No other certificates to be created

A registered person must not create certificates under Subdivision 1 in respect of electricity generated by a small generation unit, unless an election is made under section 35 in relation to that unit.

34	Certificates must not be created if certificates already created under other scheme	1 2
(1)	A registered person must not create a certificate for the electricity generated by a small generation unit if:	3 4
(a)	a renewable energy certificate under a corresponding Act has been created in respect of the generation of that electricity, or	5 6
(b)	an abatement certificate under Part 8A of the <i>Electricity Supply Act 1995</i> has been created in respect of the generation of that electricity, or	7 8 9
(c)	a certificate, credit or other thing conferring a similar benefit to the benefit conferred by a renewable energy certificate under this Act has been created in respect of the generation of that electricity under a voluntary renewable energy scheme.	10 11 12 13
(2)	The scheme rules may make further provision for scheme switching (that is, the participation in the scheme provided for by this Act by a person who is a participant in another renewable energy scheme).	14 15 16
(3)	Without limiting subsection (2), the scheme rules may prohibit or restrict the creation of certificates under this Act by a person who is a participant in another renewable energy scheme.	17 18 19
(4)	For the purposes of this section, a person is a <i>participant in another renewable energy scheme</i> if:	20 21
(a)	the person has been or is a corresponding scheme participant, or	22
(b)	the person has been or is a participant in the scheme provided for by Part 8A of the <i>Electricity Supply Act 1995</i> or a voluntary renewable energy scheme, or	23 24 25
(c)	the small generation unit in relation to which the person is a registered person is or has been accredited under a scheme referred to in paragraph (b).	26 27 28
(5)	In this section, <i>voluntary renewable energy scheme</i> means a voluntary scheme to encourage the generation or consumption (or both) of renewable energy that is determined by the Minister, by order published in the Gazette, to be a voluntary renewable energy scheme for the purposes of this Act.	29 30 31 32 33
35	Election to not create certificates under this Subdivision	34
(1)	In this section:	35
	<i>qualifying small generation unit</i> means a small generation unit of a kind specified in the scheme rules for the purposes of this section.	36 37

(2)	The owner of a qualifying small generation unit at the time that it is installed may give the Scheme Administrator a notice in writing electing that this Subdivision does not apply to the creation of certificates that relate to the unit.	1 2 3 4
(3)	The owner must make the election within the period of 20 business days beginning on the day the unit is installed and before any certificates are created under this Subdivision that relate to the unit.	5 6 7
(4)	If an election is made, a person must not create certificates under this Subdivision that relate to the unit. Note. A person may be able to create certificates under Subdivision 1 that relate to the unit.	8 9 10 11
(5)	An election must not be varied or revoked.	12
36	Small generation unit returns	13
(1)	If the sum of the number of certificates created by a person during a year under this Subdivision exceeds 250, the person must give a return for the year to the Scheme Administrator on or before:	14 15 16
	(a) 14 March in the following year, or	17
	(b) any later day allowed by the Scheme Administrator.	18
(2)	The return must include details of:	19
	(a) the number of certificates the person created under this Subdivision during the year, and	20 21
	(b) the number of certificates the person is entitled to create under this Subdivision because of rights assigned to the person under section 32 (2) during the year, and	22 23 24
	(c) any other information specified by the scheme rules.	25
(3)	A return must also be audited in accordance with the scheme rules before it is given to the Scheme Administrator.	26 27
Subdivision 3	End of right to create certificates	28
37	No certificates can be created on or after 1 January 2031	29
	No certificates can be created under:	30
	(a) Subdivision 1 in respect of electricity generated, or	31
	(b) Subdivision 2 in respect of a small generation unit installed, on or after 1 January 2031.	32 33

Subdivision 4 Improper creation of certificates

38 Improper creation of certificates

- (1) A person who is not entitled under this Act to create a certificate must not create a certificate.

Maximum penalty:

- (a) in the case of a body corporate—240 penalty units, or
- (b) in the case of an individual—60 penalty units.
- (2) In determining whether a person was not entitled to create a certificate under this Act, the fact that the certificate has been registered by the Scheme Administrator under section 41 is to be disregarded.

Note. This ensures that a person cannot raise as relevant evidence the fact that a certificate has been registered.

Division 5 Form and registration of certificates

39 Form and content of certificates—accredited power stations

- (1) Certificates under Subdivision 1 of Division 4 are to be created in an electronic form approved in writing by the Scheme Administrator.
- (2) Each certificate is to contain:
- (a) a unique identification code, and
- (b) the electronic signature of the registered person who created the certificate, and
- (c) the date on which the final part of the electricity was generated, and
- (d) details of the eligible renewable energy source or sources of that electricity, and
- (e) the date on which the certificate was created.
- (3) A certificate's unique identification code is to consist of the following in the following order:
- (a) the registered person's registration number,
- (b) the accredited power station's identification code,
- (c) the year,
- (d) a number in an unbroken sequence, that is used for all certificates issued in respect of electricity generated by the accredited power station in that year, that starts at one and has increments of one.

40	Form and content of certificates—small generation units	1
(1)	Certificates under Subdivision 2 of Division 4 are to be created in an electronic form approved in writing by the Scheme Administrator.	2 3
(2)	Each certificate is to contain:	4
(a)	a unique identification code, and	5
(b)	the electronic signature of the registered person who created the certificate, and	6 7
(c)	the date on which the small generation unit concerned was installed, and	8 9
(d)	details of the eligible renewable energy source in respect of which the certificate was created, and	10 11
(e)	the date on which the certificate was created.	12
(3)	A certificate's unique identification code is to consist of the following in the following order:	13 14
(a)	the registered person's registration number, and	15
(b)	a number in an unbroken sequence that is used for all certificates created by the registered person in that year and that starts at one and has increments of one.	16 17 18
41	Certificates must be registered	19
(1)	A certificate is not valid until it has been registered by the Scheme Administrator.	20 21
(2)	If the Scheme Administrator is notified that a certificate has been created, the Scheme Administrator must decide whether the certificate is eligible for registration.	22 23 24
(3)	A certificate is not eligible for registration unless the Scheme Administrator has been paid the relevant fee (if any) fixed under section 112 for the registration of the certificate.	25 26 27
(4)	If the Scheme Administrator decides that a certificate is eligible for registration, the Scheme Administrator must create an entry for the certificate in the register of renewable energy certificates and record the person who created the certificate as the owner of the certificate.	28 29 30 31
(5)	If the Scheme Administrator decides that a certificate is not eligible for registration, or has been improperly created, the Scheme Administrator must:	32 33 34
(a)	not register the certificate, and	35
(b)	notify the person who created the certificate.	36

- (6) The Scheme Administrator may at any time (whether before or after the registration of a certificate) require the person who created the certificate to provide to the Scheme Administrator a written statement containing such information as the Scheme Administrator requires in connection with the creation of the certificate. The person who created the certificate must provide the statement within the period (not being a period of less than 10 business days) specified by the Scheme Administrator.

Division 6 Transfer of certificates

42 Certificates may be transferred

- (1) Certificates that have been registered under section 41 may be transferred to any person.
- (2) To avoid doubt, a certificate may be transferred to a person who does not acquire the electricity generated to which the certificate relates.

43 Scheme Administrator to be notified

- (1) The Scheme Administrator must be notified of each transfer of a certificate.
- (2) The notification must be by electronic transmission in the manner specified, in writing, by the Scheme Administrator.
- (3) The notification must be accompanied by the relevant fee (if any) fixed under section 112.
- (4) When the Scheme Administrator is notified, the Scheme Administrator must alter the register of certificates to show the transferee as the owner of the certificate.

Division 7 Retirement of certificates

44 Owner may surrender certificate

- (1) The owner of a certificate may surrender the certificate to the Scheme Administrator under this section.
- Note 1.** The register of renewable energy certificates must contain the name of the current owner of each certificate.
- Note 2.** Certificates must also be surrendered under section 67 and may also be required to be surrendered in accordance with a certificate surrender notice, or under section 73 or 74.
- (2) The owner of a certificate must, at the same time, give the Scheme Administrator reasons, in writing, why the owner is surrendering the certificate.

(3)	A certificate surrendered under this section must not be included in an energy acquisition statement.	1 2
45	Retirement of certificates	3
(1)	If a certificate is surrendered under section 44 or 67, or in compliance with a surrender certificate notice or an order under section 73 or 74, the certificate ceases to be valid.	4 5 6
(2)	On a certificate ceasing to be valid, the Scheme Administrator must alter the entry relating to the certificate in the register of certificates to show that the certificate is no longer valid.	7 8 9
Division 8	Suspension of registration	10
46	Suspension of registration—conviction for improper creation of certificates	11 12
(1)	If a registered person has been convicted of an offence under section 38, the Scheme Administrator may suspend the person's registration for such period (not exceeding 2 years) as the Scheme Administrator considers appropriate in all of the circumstances.	13 14 15 16
(2)	If a person whose registration has previously been suspended under subsection (1) is convicted of another offence under section 38, the Scheme Administrator may suspend the person's registration for such period (including permanently) as the Scheme Administrator considers appropriate in all of the circumstances.	17 18 19 20 21
47	Suspension of registration—other grounds	22
(1)	The Scheme Administrator may, by written notice, suspend the registration of a registered person if the Scheme Administrator believes on reasonable grounds that the person:	23 24 25
(a)	has committed an offence against this Act, or	26
(b)	has breached an undertaking given to the Scheme Administrator under Division 1.	27 28
(2)	A registration that is suspended under subsection (1) is suspended for such period (not exceeding 12 months) as the Scheme Administrator considers appropriate in all of the circumstances. That period must be specified in the notice.	29 30 31 32
(3)	The Scheme Administrator may, by written notice, suspend the registration of a registered person if the registration was obtained improperly.	33 34 35

- (4) A registration that is suspended under subsection (3) is suspended for such period (including permanently) as the Scheme Administrator considers appropriate in all of the circumstances. That period must be specified in the notice.

Division 9 Changing the nominated person for an accredited power station

48 Changing the nominated person for an accredited power station

- (1) A registered person who is a stakeholder in relation to an accredited power station may apply to the Scheme Administrator for approval to become the nominated person for the power station.
- Note.** The nominated person is able to create certificates in respect of electricity generated by the power station—see section 26.
- (2) The application must:
- (a) be made in a form and manner required by the Scheme Administrator, and
 - (b) contain any information required by the Scheme Administrator, and
 - (c) be accompanied by any documents required by the Scheme Administrator, and
 - (d) if required by the Scheme Administrator, be accompanied by:
 - (i) evidence of the kind referred to in section 16 (2), and
 - (ii) an undertaking in the form of a relevant undertaking referred to in section 16 (3) or 16 (4), and
 - (e) be accompanied by a statement in writing from each other stakeholder indicating that the other stakeholder agrees to the making of the application, and
 - (f) be accompanied by the relevant fee (if any) fixed under section 112.
- (3) If the Scheme Administrator receives an application that is properly made, the Scheme Administrator must, by written notice, approve the applicant as the nominated person for the accredited power station.
- (4) Otherwise, the Scheme Administrator must refuse to so approve the applicant and must notify the applicant accordingly.
- (5) For the purposes of subsection (2) (d) (i) and (ii) section 16 applies to an application under this section as if:
- (a) a reference in that section to the applicant were a reference to an applicant under this section, and

-
- (b) in section 16 (2) (c), a reference to persons specified in the application under section 15 (2) (c) were a reference to other stakeholders.

Division 10 Varying what constitutes a power station

49 Varying what constitutes an accredited power station

- (1) The Scheme Administrator may, by written notice, vary a decision under section 17 (1) (a). The Scheme Administrator may do so only in relation to an accredited power station.
- (2) The Scheme Administrator may only do so upon application by the nominated person for the accredited power station.
- (3) The application must:
- (a) be made in a form and manner required by the Scheme Administrator, and
 - (b) contain any information required by the Scheme Administrator, and
 - (c) be accompanied by any documents required by the Scheme Administrator, and
 - (d) be accompanied by the relevant fee (if any) under section 112.
- (4) If the Scheme Administrator refuses the application, the Scheme Administrator must notify, in writing, the applicant accordingly.

Division 11 Suspending the accreditation of a relevant power station

50 Suspending the accreditation of a relevant power station—interconnected power stations

- (1) The Scheme Administrator may, by written notice, suspend the accreditation of an accredited power station if:
- (a) the power station is part of a group of interconnected power stations, and
 - (b) at any time one or more of the power stations (an *excess station*) in the group generates electricity utilising its scheme capacity, and
 - (c) the Scheme Administrator is satisfied that at the time the excess station generates electricity utilising its scheme capacity (*the relevant time*), one or more of the power stations (a *shortfall station*) in the group generates less electricity than it would have generated but for a gaming arrangement, and

	(d) the Scheme Administrator is satisfied that more certificates were able to be created in relation to electricity generated at the relevant time than would have been able to be created but for the gaming arrangement.	1 2 3 4
(2)	The accreditation is suspended for such period (including permanently) as the Scheme Administrator considers appropriate in all of the circumstances. That period must be specified in the notice. Note. Any electricity generated by the power station while its accreditation is suspended is to be excluded from all calculations under section 26—see section 26 (5).	5 6 7 8 9 10
(3)	Two or more power stations form a <i>group of interconnected power stations</i> if:	11 12
	(a) each power station is able to generate electricity utilising a particular supply (<i>the relevant supply</i>) of an eligible renewable energy source, and	13 14 15
	(b) each of the power stations is owned or operated by the same person (whether alone or together with another person).	16 17
(4)	In deciding whether or not to suspend the accreditation of an accredited power station under subsection (1), the Scheme Administrator must have regard to:	18 19 20
	(a) any relevant information available that demonstrates whether or not the group of interconnected power stations generated less electricity than it would have but for a gaming arrangement, and	21 22 23
	(b) any matter specified in the scheme rules for the purposes of this subsection.	24 25
(5)	The Scheme Administrator may have regard to such other matters as it thinks appropriate.	26 27
(6)	In this section: <i>gaming arrangement</i> means an arrangement to coordinate the amount of electricity generated by each power station in a group of interconnected power stations utilising the relevant supply for the primary purpose of allowing more certificates to be created than would have been able to be created but for the arrangement.	28 29 30 31 32 33
51	Suspending the accreditation of a power station—other grounds	34
(1)	The Scheme Administrator may, by written notice, suspend the accreditation of an accredited power station if:	35 36
	(a) an electricity generation return for a year, in respect of the power station, has not been given to the Scheme Administrator in accordance with section 29, or	37 38 39

	(b) the Scheme Administrator believes on reasonable grounds that the nominated person in relation to the accredited power station, has breached an undertaking given to the Scheme Administrator under Division 3 or 9, or	1 2 3 4
	(c) the Scheme Administrator believes on reasonable grounds that the power station is being operated in contravention of a law of New South Wales, the Commonwealth, another State or a Territory.	5 6 7 8
(2)	An accreditation that is suspended under subsection (1) (a) is suspended until the return is given to the Scheme Administrator in accordance with section 29. The notice must include a statement to that effect.	9 10 11
(3)	An accreditation that is suspended under subsection (1) (b) is suspended for such period (including permanently) as the Scheme Administrator considers appropriate in all of the circumstances. That period must be specified in the notice.	12 13 14 15
(4)	An accreditation that is suspended under subsection (1) (c) is suspended until the Scheme Administrator believes on reasonable grounds that the power station is not being operated in contravention of that law. The notice must include a statement to that effect.	16 17 18 19
	Note. Any electricity generated by the power station while its accreditation is suspended under this section is to be excluded from all calculations under section 26: see section 26 (5).	20 21 22
52	Suspending the accreditation of a power station—regulations	23
(1)	The regulations may specify other circumstances in which the Scheme Administrator may suspend the accreditation of an accredited power station.	24 25 26
(2)	If a circumstance specified under subsection (1) arises, the Scheme Administrator may, by written notice, suspend the accreditation of an accredited power station.	27 28 29
(3)	An accreditation that is suspended under subsection (2) is suspended for such period (including permanently) as the Scheme Administrator considers appropriate in all of the circumstances. That period must be specified in the notice.	30 31 32 33
	Note. Any electricity generated by the power station while its accreditation is suspended under this section is to be excluded from all calculations under section 26—see section 26 (5).	34 35 36

Division 12	Varying pre-scheme capacity and scheme capacity	1
		2
53	Varying pre-scheme capacity and scheme capacity	3
(1)	The Scheme Administrator may, by written notice, vary the pre-scheme capacity or scheme capacity for an accredited power station.	4
		5
(2)	The Scheme Administrator may do so only on an application by the nominated person for the accredited power station.	6
		7
(3)	If a notice under subsection (1) increases or decreases the pre-scheme capacity or the scheme capacity (as the case requires) for an accredited power station, the notice has effect on and from the time the notice is given.	8
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Part 3 Acquisitions of electricity

54 What is a “standard scheme acquisition”?

- (1) An acquisition of electricity is a *standard scheme acquisition* if, under the acquisition, electricity is acquired by a person or body from NEMMCO, or a person or body specified by the scheme rules, for use in New South Wales.
- (2) If there is a standard scheme acquisition of electricity under this section, then no other acquisition in relation to that electricity is a scheme acquisition (regardless of when the other acquisition occurs).

55 What is a “notional scheme acquisition”?

- (1) A person or body that generates electricity for use by them in New South Wales is taken to have made a *notional scheme acquisition* of electricity at the time the person or body uses the electricity.
- (2) 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 at the time the acquisition occurs.

56 What is an “excluded acquisition”?

An *excluded acquisition* is:

- (a) an acquisition of electricity under which the electricity that is acquired is later acquired by NEMMCO or a person or body specified by the scheme rules, or
- (b) a standard scheme acquisition or a notional scheme acquisition specified by order under section 57, or
- (c) a standard scheme acquisition or a notional scheme acquisition specified by the regulations to be an excluded acquisition.

57 Specification of standard scheme acquisitions and notional scheme acquisitions as excluded acquisitions

- (1) The Governor may, by order published in the Gazette, specify a standard scheme acquisition or a notional scheme acquisition to be an excluded acquisition.
- (2) In specifying a standard scheme acquisition under an order under subsection (1), the Governor may specify it by reference to any one or more of the following:
 - (a) a minimum amount of electricity to which the acquisition relates,

(b)	the end user acquiring the electricity,	1
(c)	the supply points at which the electricity is used.	2
(3)	In specifying a notional scheme acquisition under an order under subsection (1), the Governor may specify it by reference to:	3
(a)	a minimum amount of electricity to which the acquisition relates,	5
	or	6
(b)	a person or body that generates electricity for use by them in New South Wales, or	7
		8
(c)	a class of persons or bodies the members of which each generate electricity for use by themselves in New South Wales.	9
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58	Special provision for transactions involving NEMMCO	11
	Despite section 56, no acquisition of electricity by NEMMCO is a scheme acquisition.	12
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59	Scheme rules to determine amount of electricity acquired	14
(1)	The amount of electricity acquired under a scheme acquisition is to be determined in accordance with the scheme rules.	15
		16
(2)	For the purposes of subsection (1), electricity used for the primary purpose of generating, transmitting or distributing electricity is not to be taken into account.	17
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		19

Part 4	Renewable energy certificate shortfall	1
Division 1	Prohibition of renewable energy certificate shortfall	2
60	Who is a “relevant entity”?	4
	A person who makes a scheme acquisition of electricity is called a <i>relevant entity</i> .	5 6
61	Prohibition of renewable energy certificate shortfall	7
(1)	A relevant entity must not have a renewable energy certificate shortfall for a year in which the relevant entity makes a scheme acquisition.	8 9
(2)	Subsection (1) does not apply in the year 2031 or any year after that year.	10 11
(3)	Subsection (1) does not apply in respect of a trade exposed electricity intensive user.	12 13
62	Civil penalty for shortfall	14
(1)	A relevant entity that has a renewable energy certificate shortfall for a year is liable to pay to the Consolidated Fund a pecuniary penalty (<i>renewable energy shortfall penalty</i>) determined in accordance with this section.	15 16 17 18
(2)	The renewable energy shortfall penalty payable by a relevant entity for a year is determined by multiplying the relevant entity’s renewable energy certificate shortfall (in MWh) for that year by the shortfall penalty rate for that year.	19 20 21 22
63	Shortfall penalty rate	23
(1)	The shortfall penalty rate is \$43 per MWh as varied in accordance with this section.	24 25
(2)	The shortfall penalty rate for a year is the amount referred to in subsection (1) as varied in accordance with the formula:	26 27
	$A \times \frac{B}{C}$	
	where:	28
	<i>A</i> is the amount referred to in subsection (1).	29

B is the all groups consumer price index for Melbourne published by the Australian Statistician in respect of the September quarter of the year preceding the year for which the shortfall penalty rate is being determined.

C is the all groups consumer price index for Melbourne published by the Australian Statistician in respect of the 2006 September quarter.

- (3) The Scheme Administrator must cause a notice to be published in the Gazette specifying the shortfall penalty rate for a year, as determined in accordance with this section.

Note. The Melbourne consumer price index is used to retain consistency with the shortfall penalty rate imposed under the *Victorian Renewable Energy Act 2006* of Victoria.

64 Determination of renewable energy certificate shortfall

The following steps and result show how to determine whether a relevant entity has a renewable energy certificate shortfall for a year:

- Step 1.** Calculate the total amount, in MWh, of electricity acquired by the relevant entity during the year under scheme acquisitions.

Note. Section 59 provides that the amount of electricity acquired under a scheme acquisition is to be determined in accordance with the scheme rules.

- Step 2.** Multiply the total electricity acquired by the renewable power percentage for the year and round down to the nearest MWh (assuming there is more than 1 MWh). Subtract any carried forward surplus for the previous year. The result is the relevant entity's *required renewable energy* for the year.

- Step 3.** Subtract the total value, in MWh, of certificates surrendered to the Scheme Administrator under section 67 for that year by the relevant entity from the required renewable energy for the year.

- Result.** If the result is greater than zero, the relevant entity has a *renewable energy certificate shortfall* for the year equal to the result.

If the result is zero or less than zero, the relevant entity does not have a renewable energy certificate shortfall for the year.

If the result is less than zero, the relevant entity has a *carried forward surplus* for the year.

Division 2	Renewable power percentage	1
65	Renewable power percentage	2
(1)	The Governor may, on the recommendation of the Minister, by order published in the Gazette, fix the renewable power percentage in respect of a year after 2008.	3 4 5
(2)	In making a recommendation as to the renewable power percentage in respect of a year, the Minister must have regard to the scheme acquisitions by each relevant entity in the previous year and the required GWh of electricity from eligible renewable energy sources for that year.	6 7 8 9
(3)	An order under subsection (1) fixing the renewable power percentage for a year must be made on or before 31 May of that year.	10 11
(4)	If a renewable power percentage is not fixed by order for a year, the percentage is to be calculated in accordance with the method contained in the scheme rules.	12 13 14
(5)	The renewable power percentage for 2008 is 0.576%.	15
66	Required GWh of electricity from eligible renewable energy sources	16
(1)	The required GWh of electricity from eligible renewable energy sources for a year is set out in Schedule 1.	17 18
(2)	The Governor may, by proclamation, amend Schedule 1 by:	19
(a)	omitting from column 2 of the Schedule the figure that specifies the required GWh for a year, and	20 21
(b)	inserting instead a new figure as the required GWh for that year.	22
(3)	A proclamation under this section may be made only on the recommendation of the Minister.	23 24
(4)	The Minister may recommend the making of a proclamation under this section only if the purpose of the amendment to Schedule 1 is to increase the required GWh for a year or years, subject to subsection (5).	25 26 27
(5)	If a change is made to the required GWh of renewable source electricity under a corresponding Act, the Minister may recommend the making of a proclamation that amends Schedule 1 for the purpose of increasing or decreasing the required GWh for a year or years.	28 29 30 31
(6)	A proclamation made under this section must be made on or before 30 September in the year before the year in relation to which it has effect.	32 33 34

Part 5 Statements and surrender of certificates

67 Annual energy acquisition statements

- (1) A relevant entity that makes an acquisition of electricity under a scheme acquisition during a year must lodge an energy acquisition statement for the year on or before:
 - (a) 30 April in the following year, or
 - (b) any later day allowed by the Scheme Administrator.
- (2) The statement must set out:
 - (a) the name and postal address of the relevant entity, and
 - (b) the amount of electricity acquired under scheme acquisitions during the year, and
Note. Section 59 provides that the amount of electricity acquired under a scheme acquisition is to be determined in accordance with the scheme rules.
 - (c) the value, in MWh, of certificates being surrendered for that year under this section, and
 - (d) any carried forward surplus for the previous year, and
 - (e) any carried forward surplus for the current year, and
 - (f) any other information specified by the scheme rules.
- (3) The statement must:
 - (a) be made in a form and manner required by the Scheme Administrator, and
 - (b) be accompanied by the relevant fee (if any) fixed under section 112, and
 - (c) be signed by or on behalf of the relevant entity making the statement.
- (4) The statement must be accompanied by details of all certificates being surrendered for that year under this section.
- (5) A certificate cannot be specified in the statement unless the relevant entity is recorded in the register of renewable energy certificates as the owner of the certificate at the time that the statement is lodged.
- (6) A statement must also be audited in accordance with the scheme rules before it is lodged under this section.
- (7) Subsection (1) does not apply in respect of a trade exposed electricity intensive user.

68 Fees for surrender of certificates

- (1) The Scheme Administrator must, by notice in writing given to the relevant entity, advise the relevant entity:
 - (a) of the number of certificates specified under section 67 (4) that are able to be surrendered for that year, and
 - (b) of the relevant fee (if any) fixed under section 112 that is payable by the relevant entity in respect of the surrender of those certificates.

Note. Section 69 contains restrictions on the certificates that can be surrendered.
- (2) The relevant entity must pay the fee within the period of 20 business days beginning on the day the relevant entity receives the notice under subsection (1).
- (3) If the fee is unpaid at the end of that period, it is a debt due to the Crown and is recoverable by the Scheme Administrator in any court of competent jurisdiction.

69 Restrictions on certificates that can be surrendered

A certificate cannot be surrendered under section 67 unless:

- (a) the certificate is valid, and
- (b) the certificate 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 at the time that the statement is lodged.

Part 6 Civil enforcement

Division 1 Renewable energy shortfall penalty

70 Shortfall statement

- (1) If the Scheme Administrator believes on reasonable grounds that a relevant entity is in breach of an obligation under section 61 in respect of a year, the Scheme Administrator may issue a shortfall statement to the relevant entity.
- (2) The shortfall statement must set out:
 - (a) the name and postal address of the relevant entity, and
 - (b) the relevant entity's renewable energy certificate shortfall for the year, and
 - (c) the renewable energy shortfall penalty that the relevant entity is liable to pay under section 62, and
 - (d) the manner in which that penalty is to be paid, and
 - (e) the time within which that penalty is to be paid, and
 - (f) any other information required by the scheme rules.
- (3) The shortfall statement must include a statement advising the relevant entity that if the renewable energy shortfall penalty is not paid in accordance with the shortfall notice, the Scheme Administrator may apply to a court for an order requiring the penalty to be paid.

71 Application for declaration and order for payment of shortfall penalty

- (1) If a renewable energy shortfall penalty is not paid in accordance with a shortfall notice, the Scheme Administrator may apply to a court for:
 - (a) a declaration that the relevant entity has contravened section 61, and
 - (b) an order requiring the relevant entity to pay the renewable energy shortfall penalty.
- (2) If the court is satisfied that the relevant entity has contravened section 61, the court may:
 - (a) make the declaration sought, and
 - (b) order the relevant entity to pay to the Scheme Administrator for payment into the Consolidated Fund the amount of the renewable energy shortfall penalty determined in accordance with Part 4.
- (3) An order made by a court under this section is taken, for the purposes of enforcement, to be an order made by the court in a civil proceeding.

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- (4) In this section, a ***court*** means a Local Court, the District Court or the Supreme Court. 1
2
- (5) In proceedings under this section: 3
- (a) a Local Court is not to make an order requiring a penalty to be paid if the amount of the penalty exceeds its jurisdictional limit when sitting in its General Division, and 4
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- (b) the District Court is not to make an order requiring a penalty to be paid if the amount of the penalty exceeds its jurisdictional limit under the *District Court Act 1973*. 7
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Division 2 Surrender of additional certificates where undertaking breached 10 11

72 Certificate surrender notice 12

- (1) If the Scheme Administrator believes on reasonable grounds that a nominated person or a registered person is in breach of an undertaking given under Division 1, 3 or 9 of Part 2 relating to the creation of certificates, the Scheme Administrator may issue a certificate surrender notice to that person. 13
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- (2) The Scheme Administrator must not issue a certificate surrender notice under this section unless the Scheme Administrator has, as the case requires, suspended: 18
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20
- (a) under section 47 (1) (b), the registration of the registered person, 21
- (b) under section 51 (1) (b), the accreditation of the power station in relation to which certificates have been created in breach of the undertaking. 22
23
24
- (3) The notice must: 25
- (a) set out the name and postal address of the registered person or nominated person, and 26
27
- (b) specify the number of certificates that must be surrendered to the Scheme Administrator, and 28
29
- (c) specify the time within which the certificates specified must be surrendered. 30
31
- (4) The number of certificates that must be surrendered must be equivalent to the number of certificates created and registered under this Act: 32
33
- (a) in the case of a breach of an undertaking under Division 1 of Part 2—in relation to the small generation unit in relation to which corresponding certificates were also created, 34
35
36

(b)	in the case of a breach of an undertaking under Division 3 or 9 of Part 2—utilising the scheme capacity of the accredited power station of the nominated person that was also utilised to create corresponding certificates.	1 2 3 4
(5)	The certificate surrender notice must include a statement advising the registered person or nominated person that if the number of certificates specified in the notice to be surrendered is not surrendered in accordance with the notice, the Scheme Administrator may apply to a court for an order under section 73.	5 6 7 8 9
(6)	A certificate surrendered in accordance with a certificate surrender notice is not to be counted toward a person's compliance with section 61.	10 11 12
(7)	To avoid doubt, it is not an excuse for a failure to comply with a certificate surrender notice that the person to whom the notice is issued is not, at the time the notice is issued, the registered owner of a sufficient number of certificates to comply with the notice.	13 14 15 16
73	Application for declaration and order requiring surrender of certificates	17
(1)	If certificates are not surrendered in accordance with a certificate surrender notice, the Scheme Administrator may apply to a court for:	18 19
(a)	a declaration that a registered person or nominated person has breached an undertaking given by that person under Division 1, 3 or 9 of Part 2, and	20 21 22
(b)	an order requiring the registered person or nominated person to surrender to the Scheme Administrator the number of certificates specified in the order.	23 24 25
(2)	If the court is satisfied that the registered person or nominated person has breached the undertaking given by the person under Division 1, 3 or 9 of Part 2, the court may:	26 27 28
(a)	make the declaration sought, and	29
(b)	order the registered person or nominated person to surrender to the Scheme Administrator the number of certificates specified in the order within the time specified in the order.	30 31 32
(3)	A certificate surrendered in accordance with an order made under this section is not to be counted toward a person's compliance with section 61.	33 34 35
(4)	To avoid doubt, it is not an excuse for a failure to comply with an order under this section that the person who is the subject of the order is not, at the time the order is made, the registered owner of a sufficient number of certificates to comply with the order.	36 37 38 39

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- (5) In this section, a **court** means a Local Court, the District Court or the Supreme Court. 1
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- (6) In proceedings under this section: 3
- (a) a Local Court is not to make an order requiring the surrender of certificates if the total value of the certificates to be surrendered exceeds its jurisdictional limit when sitting in its General Division, and 4
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- (b) the District Court is not to make an order requiring the surrender of certificates if the total value of the certificates to be surrendered exceeds its jurisdictional limit under the *District Court Act 1973*. 8
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Division 3 Surrender of additional certificates following improper creation of certificates 12 13

74 Scheme Administrator may require surrender of certificates following improper creation of certificates 14 15

- (1) The Scheme Administrator may, by order in writing to a person, require the person to surrender to the Scheme Administrator, within a period specified in the order, a number of certificates specified in the order. 16
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18
- (2) An order may be made against a person under this section only if the person is found guilty of an offence against section 38. 19
20
- (3) If an order is made against a person found guilty of an offence under section 38, the Scheme Administrator is to require the surrender of a number of certificates that is equivalent to the number of certificates that were created by the person in contravention of section 38 and registered under this Act. 21
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23
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- (4) A certificate surrendered under this section is not to be counted toward a person's compliance with section 61. 26
27
- (5) A person must not fail to comply with an order under this section. 28
Maximum penalty: 600 penalty units and an additional 1 penalty unit 29
for each certificate that the person fails to surrender in accordance with 30
the order. 31
- (6) To avoid doubt, it is not an excuse for a failure to comply with an order under this section that the person who is the subject of the order is not, at the time the order is made, the registered owner of a sufficient number of certificates to comply with the order. 32
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Part 7 Review of Scheme Administrator decisions

75 Review of decisions

- (1) An affected person in relation to a reviewable decision may request that the Scheme Administrator reconsider the decision.
- (2) The following Table sets out the reviewable decisions and, for each decision, sets out the provision under which it is made and the affected person in relation to it.

Table of reviewable decisions

Item	For a decision...	made under...	the affected person is...
1	to refuse to register a person	section 10	the person
2	in relation to an application about provisional accreditation of a relevant power station	section 13	the applicant for provisional accreditation
3	in relation to an application about accreditation of a relevant power station	section 17	the applicant for accreditation
4	to refuse to accredit a relevant power station	section 18	the applicant for accreditation
5	not to register a certificate	section 41	the person who created the certificate
6	to suspend a person's registration	section 46 or 47	the registered person
7	to refuse to approve a person as the nominated person for an accredited power station	section 48	the person
8	to vary, or refuse to vary, a decision about power station components	section 49	the nominated person for the accredited power station concerned
9	to suspend the accreditation of an accredited power station	section 50 or 51	the nominated person for the power station concerned

Item	For a decision...	made under...	the affected person is...	
10	to vary, or refuse to vary, pre-scheme or scheme capacity	section 53	the nominated person for the power station concerned	
(3)	The request must be:			1
(a)	in writing setting out the reasons for the request, and			2
(b)	accompanied by the relevant fee (if any) fixed under section 112, and			3
(c)	given to the Scheme Administrator within 30 business days after the making of the decision.			4
(4)	The Scheme Administrator must reconsider the decision and confirm, vary or set aside the decision.			5
(5)	The Scheme Administrator is taken to have confirmed the decision under subsection (4) if the Scheme Administrator does not give notice in writing of the Scheme Administrator's decision under that subsection within 40 business days after the request.			6
(6)	Not more than one request can be made in respect of each reviewable decision.			7
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Part 8 Role of Scheme Administrator

76 Appointment and role of Scheme Administrator

- (1) The Minister is to appoint a person or body to exercise the functions of the Scheme Administrator under this Act.
- (2) The Scheme Administrator has the functions conferred or imposed on it by or under this Act and under the terms of its appointment as Scheme Administrator.
- (3) Without limiting subsection (2), the Scheme Administrator's functions under this Act include:
 - (a) to register persons who may create certificates under Division 1 of Part 2, and
 - (b) to accredit relevant power stations under Divisions 2 and 3 of Part 2, and
 - (c) to approve nominated persons under Division 3 of Part 2, and
 - (d) to monitor and administer the creation, registration, transfer and surrender of certificates under Divisions 4–7 of Part 2, and
 - (e) to enforce renewable energy shortfall penalties under Part 4, and
 - (f) to publish certain information and to report on the operations of the Act under this Part.
- (4) The Minister may appoint more than one person or body to exercise the functions of the Scheme Administrator and may appoint different persons or bodies to exercise particular functions of the Scheme Administrator. In such a case, a reference in this Act to the Scheme Administrator, in relation to any functions of the Scheme Administrator, is a reference to the person or body appointed to exercise those functions.
- (5) A person or body appointed to exercise the functions of the Scheme Administrator may divulge or communicate any information obtained for the purposes of executing this Act to any other person or body appointed to exercise the functions of the Scheme Administrator.
- (6) Anything done or omitted to be done by a person employed by the Scheme Administrator in the administration of this Act does not subject the person personally to any action, liability, claim or demand if the thing was done, or omitted to be done, in good faith for the purpose of executing this Act.
- (7) A Scheme Administrator may, with the approval of the Minister, delegate any of its functions (other than this power of delegation) to any other person or body.

(8)	The Minister is to cause a notice to be published in the Gazette advising of the appointment of a Scheme Administrator under this section.	1 2
77	Scheme Administrator must publish certain information	3
(1)	The Scheme Administrator must publish:	4
(a)	a list of each relevant entity that has a renewable energy certificate shortfall for a particular year, and	5 6
(b)	the amount of each relevant entity's renewable energy certificate shortfall for that year, and	7 8
(c)	the total of the renewable energy certificate shortfalls for that year, and	9 10
(d)	the number of certificates created in a particular year, and	11
(e)	the number of certificates surrendered in a particular year, and	12
(f)	the number of certificates that could have been created in respect of renewable energy generated in a particular year and the number that were actually created, and	13 14 15
(g)	any other information in accordance with the scheme rules.	16
(2)	Nothing in Part 12 prevents the publication of the information referred to in subsection (1).	17 18
78	Report on operations of Act	19
(1)	The Scheme Administrator must provide to the Minister a report on the operation of this Act within the period of 4 months after 30 June in each year.	20 21 22
(2)	If the Scheme Administrator is required to make a statutory annual report, it is sufficient compliance with subsection (1) for the Scheme Administrator to include a report on the operation of this Act in the statutory annual report it provides in each year.	23 24 25 26
(3)	Section 11 of the <i>Annual Reports (Statutory Bodies) Act 1984</i> is taken to apply to a report provided under this Act that is not included in a statutory annual report as if the report were a statutory annual report (and as if a reference to the appropriate Minister were a reference to the Minister administering this Act).	27 28 29 30 31
	Note. Section 11 of the <i>Annual Reports (Statutory Bodies) Act 1984</i> requires the appropriate Minister to cause the report to be laid before both Houses of Parliament.	32 33 34
(4)	In this section, statutory annual report means an annual report under the <i>Annual Reports (Departments) Act 1985</i> or the <i>Annual Reports (Statutory Bodies) Act 1984</i> .	35 36 37

Part 9	Registers	1
Division 1	General	2
79	Registers to be maintained	3
	The Scheme Administrator must maintain the following registers:	4
	(a) the register of registered persons,	5
	(b) the register of accredited power stations,	6
	(c) the register of renewable energy certificates,	7
	(d) the register of applications for accredited power stations.	8
Division 2	Register of registered persons	9
80	Register of registered persons	10
	(1) The register of registered persons is to contain:	11
	(a) the name of each registered person, and	12
	(b) the registration number for each registered person, and	13
	(c) any other information that the Scheme Administrator considers appropriate.	14
	(2) The register must also contain the following information about any person whose registration is suspended:	15
	(a) the name of the person, and	16
	(b) the person's registration number, and	17
	(c) the period for which registration is suspended, and	18
	(d) any other information that the Scheme Administrator considers appropriate.	19
		20
		21
		22
Division 3	Register of accredited power stations	23
81	Register of accredited power stations	24
	The register of accredited power stations is to contain:	25
	(a) the name of each accredited power station, and	26
	(b) the name of the nominated person for each accredited power station, and	27
	(c) the identification code for each accredited power station, and	28
	(d) the pre-scheme capacity for each accredited power station, and	29
	(e) the scheme capacity for each accredited power station, and	30
		31

(f)	the total capacity for each accredited power station, and	1
(g)	any relevant method used to determine the amount of electricity generated by each accredited power station utilising scheme capacity, and	2 3 4
(h)	any other information that the Scheme Administrator considers appropriate.	5 6
Division 4	Register of renewable energy certificates	7
82	Register of renewable energy certificates	8
	The register of renewable energy certificates is to contain:	9
(a)	the unique identification code of each valid certificate, and	10
(b)	the year in which the certificate was created, and	11
(c)	the name of the registered person who created the certificate, and	12
(d)	the name of the current registered owner, and each previous registered owner, of each certificate, and	13 14
(e)	the eligible renewable energy source or sources of the electricity in respect of which the certificate was created, and	15 16
(f)	any other information that the Scheme Administrator considers appropriate.	17 18
Division 5	Register of applications for accredited power stations	19 20
83	Contents of register of applications for accredited power stations	21
	The register of applications for accredited power stations is to contain:	22
(a)	the name of each applicant for each relevant power station to be accredited, and	23 24
(b)	the name and location of each relevant power station to be accredited, and	25 26
(c)	the eligible renewable energy source or sources proposed to be used by each relevant power station to be accredited, and	27 28
(d)	any other information that the Scheme Administrator considers appropriate.	29 30
Division 6	Form of registers	31
84	Form of registers	32
(1)	A register under this Part must be maintained by electronic means.	33

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- | | | |
|-----|---|---|
| (2) | A register is to be made available for inspection on the Scheme Administrator's internet site. | 1 |
| | | 2 |
| (3) | Any addition to a register must be made available on the Scheme Administrator's internet site within 20 business days after the Scheme Administrator registers the person, power station or certificate or receives the application (as the case requires). | 3 |
| | | 4 |
| | | 5 |
| | | 6 |

Part 10 Information-gathering powers

85 Scheme Administrator may obtain information and documents

- (1) This section applies to a person if the Scheme Administrator has reason to believe that the person has information or a document that is relevant to the operation of this Act.
- (2) The Scheme Administrator may, by written notice given to the person, require the person:
 - (a) to give to the Scheme Administrator, within the period and in the manner and form specified in the notice, any such information, or
 - (b) to produce to the Scheme Administrator, within the period and in the manner specified in the notice, any such document, or
 - (c) if the person is an individual, to appear before the Scheme Administrator at a time and place specified in the notice to give any information, either orally or in writing, and produce any such document, or
 - (d) if the person is a body corporate, to cause a competent officer of the body corporate to appear before the Scheme Administrator at a time and place specified in the notice to give any such information, either orally or in writing, and produce any such document.
- (3) A notice under subsection (2) must set out the effect of sections 86 and 87.

86 Failure to comply with notice

A person must not, without reasonable excuse, fail to comply with a notice given to the person under section 85.

Maximum penalty:

- (a) in the case of a body corporate—240 penalty units, or
- (b) in the case of an individual—60 penalty units.

87 Protection against self-incrimination

It is a reasonable excuse for an individual to refuse or fail to give information or evidence or produce a document under section 85 if the giving of the information or evidence or the production of the document would tend to incriminate the person.

88 Copies of documents

The Scheme Administrator may inspect a document produced under this Part and may make and retain copies of, or take and retain extracts from, such a document.

89	Scheme Administrator may retain documents	1
(1)	The Scheme Administrator may take, and retain for as long as necessary, possession of a document produced under this Part.	2 3
(2)	The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Scheme Administrator to be a true copy.	4 5 6
(3)	The certified copy must be received in all courts and tribunals as evidence as if it were the original.	7 8
(4)	Until a certified copy is supplied, the Scheme Administrator must, at all such times and places as the Scheme Administrator thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.	9 10 11 12 13

Part 11 Powers of authorised officers

Division 1 Appointment of authorised officers and identity cards

90 Appointment of authorised officers

- (1) The Scheme Administrator may, in writing, appoint any of the following persons as an authorised officer for the purposes of this Part:
 - (a) an employee of the Scheme Administrator,
 - (b) a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002*,
 - (c) any other person employed by the State,
 - (d) any other person who the Scheme Administrator considers has appropriate skills, qualifications and experience.
- (2) The Scheme Administrator must not appoint a person as an authorised officer unless the Scheme Administrator is satisfied that the person has appropriate skills, qualifications and experience.
- (3) In exercising functions as an authorised officer, an authorised officer must comply with any directions of the Scheme Administrator.

91 Identity cards

- (1) The Scheme Administrator must issue an identity card to an authorised officer.
- (2) The identity card must contain a recent photograph and the signature of the authorised officer.
- (3) An authorised officer must carry the identity card at all times when exercising functions as an authorised officer.
- (4) An authorised officer must produce his or her identity card for inspection:
 - (a) before exercising a power under this Part other than a requirement made by post, fax, email or other electronic communication, and
 - (b) at any time during the exercise of a power under this Part, if asked to do so.

Maximum penalty: 10 penalty units.

Division 2	Powers of authorised officer	1
Subdivision 1	When may powers be exercised	2
92	When may powers be exercised?	3
(1)	An authorised officer may exercise powers under this Part only to the extent that it is reasonably necessary to do so for substantiating information provided under this Act or for determining whether this Act has been complied with.	4 5 6 7
(2)	In exercising powers under this Part, an authorised officer must:	8
(a)	cause as little inconvenience as possible, and	9
(b)	not remain on premises any longer than is reasonably necessary.	10
Subdivision 2	Monitoring powers	11
93	Entry to premises	12
(1)	An authorised officer may at any reasonable time:	13
(a)	enter any premises, and	14
(b)	exercise the monitoring powers set out in section 97.	15
(2)	An authorised officer is not authorised to enter premises under subsection (1) unless:	16 17
(a)	the premises are business premises, the occupier of the premises has consented to the entry and the authorised officer has complied with section 95, or	18 19 20
(b)	the entry is made under a search warrant.	21
(3)	If the authorised officer is on the premises with the consent of the occupier, the authorised officer must leave the premises if the occupier asks the authorised officer to do so.	22 23 24
94	Information to be provided to occupier on entry	25
	If the occupier of the premises is present when an authorised officer exercises a power of entry under this Part, the officer must inform the occupier of the purpose of the entry.	26 27 28
	Note 1. The authorised officer must also produce his or her identity card for inspection—see section 91 (4).	29 30
	Note 2. If entry is made under a search warrant, section 67 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> requires the authorised officer to serve an occupier's notice on the occupier containing information in relation to the warrant.	31 32 33 34

95	Entry with consent	1
(1)	If an occupier consents to an entry under section 93, the authorised officer must before entering the premises ask the occupier to sign an acknowledgement stating:	2
		3
		4
(a)	that the occupier has been informed of the purpose of the entry,	5
	and	6
(b)	that the occupier has been informed that he or she may refuse to consent to the entry, and	7
		8
(c)	that the occupier has consented to the entry, and	9
(d)	the date and time that the occupier consented.	10
(2)	An occupier who signs an acknowledgement must be given a copy of the signed acknowledgement before the authorised officer leaves the premises.	11
		12
		13
(3)	If, in any proceeding, an acknowledgement is not produced to the court or tribunal, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry.	14
		15
		16
(4)	An entry of an authorised officer by virtue of the consent of a person is not lawful unless the person voluntarily consented to the entry.	17
		18
96	Entry with search warrant	19
	Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies if premises are entered under a search warrant.	20
		21
		22
97	Monitoring powers of authorised officers	23
(1)	For the purposes of this Part, the following are the monitoring powers that an authorised officer may exercise in relation to premises under section 93:	24
		25
		26
(a)	the power to search the premises for any thing on the premises that may relate to:	27
		28
(i)	the creation or transfer of certificates, or	29
(ii)	scheme acquisitions,	30
(b)	the power to examine any activity conducted on the premises that may relate to information provided for the purposes of this Act,	31
		32
(c)	the power to examine any thing on the premises that may relate to information provided for the purposes of this Act,	33
		34
(d)	the power to take photographs or make video or audio recordings or sketches on the premises of any such activity or thing,	35
		36

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- (e) the power to inspect any document on the premises that may relate to information provided for the purposes of this Act, 1
2
- (f) the power to take extracts from, or make copies of, any such document, 3
4
- (g) the power to take onto the premises such equipment and materials as the authorised officer requires for the purpose of exercising powers in relation to the premises, 5
6
7
- (h) the power to secure a thing that: 8
- (i) is found during the exercise of monitoring powers on the premises, and 9
10
- (ii) an authorised officer believes on reasonable grounds affords evidence of the commission of an offence against this Act, and 11
12
13
- (iii) the authorised officer believes on reasonable grounds would be lost, destroyed or tampered with before a warrant can be obtained, 14
15
16
- until a warrant is obtained to seize the thing, 17
- (i) the powers in subsections (2) and (3). 18
- (2) For the purposes of this Part, **monitoring powers** include the power to operate equipment at premises to see whether: 19
20
- (a) the equipment, or 21
- (b) a disk, tape or other storage device that: 22
- (i) is at the premises, and 23
- (ii) can be used with the equipment or is associated with it, 24
- contains information that is relevant to substantiating information provided under this Act. 25
26
- (3) For the purposes of this Part, **monitoring powers** include the following powers in relation to information described in subsection (2) found in the exercise of the power under that subsection: 27
28
29
- (a) the power to operate facilities at the premises to put the information in documentary form and copy the documents so produced, 30
31
32
- (b) the power to operate facilities at the premises to transfer the information to a disk, tape or other storage device that: 33
34
- (i) is brought to the premises for the exercise of the power, or 35
- (ii) is at the premises and the use of which for the purpose has been agreed in writing by the occupier of the premises, 36
37

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- (c) the power to remove from the premises a disk, tape or other storage device to which the information has been transferred in the exercise of the power under paragraph (b).

Subdivision 3 Powers to ask questions and seek production of documents

98 Authorised officer may ask for information

An authorised officer may, while on premises entered by the authorised officer with the consent of the occupier, ask the occupier to do one or more of the following:

- (a) answer any questions related to the creation or transfer of certificates, scheme acquisitions or the provision of information under this Act that are put by the authorised officer,
- (b) produce any document requested by the authorised officer that is so related.

99 Authorised officer may require information

An authorised officer may, while on premises entered under a search warrant, require any person in or on the premises to do one or more of the following:

- (a) answer any questions related to the creation or transfer of certificates, scheme acquisitions or the provision of information under this Act that are put by the authorised officer,
- (b) produce any document requested by the authorised officer that is so related.

100 Failure to produce documents or answer questions

A person must not, without reasonable excuse, fail to answer a question or produce a document as required under section 99.

Maximum penalty: 60 penalty units.

101 Protection against self-incrimination

- (1) It is a reasonable excuse for an individual to refuse or fail to answer a question or produce a document under section 99 if the answering of the question or the production of the document would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for an individual to refuse or fail to produce a document that the person is required to keep by this Act, if the production of the document would tend to incriminate the person.

Division 3	Occupiers' rights and responsibilities	1
102	Occupier may be present during execution of warrant	2
(1)	If a search warrant is being executed and the occupier of the warrant premises, or another person who apparently represents the occupier, is present at the premises, the person is entitled to observe the execution of the warrant.	3 4 5 6
(2)	The right to observe the execution of the warrant ceases if the person impedes that execution.	7 8
(3)	This section does not prevent the execution of the warrant in 2 or more areas of the premises at the same time.	9 10
103	Occupier to provide authorised officer with assistance	11
	The occupier of warrant premises, or another person who apparently represents the occupier, must provide the authorised officer executing the warrant and any person assisting that officer with all reasonable facilities and assistance for the effective exercise of their powers.	12 13 14 15
	Maximum penalty:	16
(a)	in the case of a body corporate—240 penalty units, or	17
(b)	in the case of an individual—60 penalty units.	18
Division 4	Search warrants	19
104	Search warrants	20
(1)	An authorised officer may apply to an authorised officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> for the issue of a search warrant if the authorised officer under this Act believes on reasonable grounds that entry to the premises for the purposes of exercising monitoring powers is necessary for the purpose of:	21 22 23 24 25
(a)	substantiating information provided under this Act, or	26
(b)	determining whether this Act has been complied with.	27
(2)	An authorised officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised officer under this Act named in the warrant:	28 29 30 31 32
(a)	to enter the premises, and	33
(b)	to exercise any monitoring powers in relation to the premises.	34

Part 12 Confidentiality

105 Disclosure of information and offence

- (1) A person must not disclose any confidential or commercially-sensitive information obtained during the exercise of a power or the performance of a function under, or in connection with, this Act.

Maximum penalty: 60 penalty units.

- (2) A person must not use any such information to obtain directly or indirectly any pecuniary or other advantage for himself or herself or any other person.

Maximum penalty: 120 penalty units.

- (3) However, the person may disclose or use such information if:

- (a) the disclosure or use is made in the exercise of a power or the performance of a function under, or in connection with, this Act, or
- (b) the person has the consent of the person who supplied the information, or
- (c) the disclosure or use is made in legal proceedings at the direction of a court, or
- (d) the information is in the public domain at the time it is disclosed or used.

- (4) To avoid doubt, subsection (3) is not intended to interfere with any rights another person may have with regard to the disclosure or use of the information.

106 Information may be disclosed to specified persons or bodies

- (1) This Part does not prevent the Scheme Administrator, or a person authorised by the Scheme Administrator, from divulging or communicating information to:

- (a) a Minister of the Crown, or
- (b) a corresponding regulator or an officer of a corresponding regulator, or
- (c) any other person or body appointed by the Minister to exercise the functions, or particular functions, of the Scheme Administrator under this Act, or
- (d) a public authority, or
- (e) NEMMCO, or
- (f) VENCORP established under the *Gas Industry Act 2001* of Victoria, or

-
- (g) Sustainability Victoria established under the *Sustainability Victoria Act 2005* of Victoria, or 1
2
- (h) the Head of the Australian Greenhouse Office (within the 3
meaning of the *Renewable Energy (Electricity) Act 2000* of the 4
Commonwealth) or an officer of the Australian Greenhouse 5
Office authorised by the Head of the Australian Greenhouse 6
Office for the purposes of this Part, or 7
- (i) an officer of that part of the Department of Agriculture, Fisheries 8
and Forestry of the Commonwealth Government known as the 9
Australian Bureau of Agricultural and Resource Economics 10
(**ABARE**) for the purposes of the exercise of any of ABARE's 11
functions. 12
- (2) In this section: 13
- public authority** means a public authority constituted by or under an 14
Act, a government department or a statutory body representing the 15
Crown, but does not include a local authority or a State owned 16
corporation. 17

Part 13 General

Division 1 General offences

107 False or misleading information

A person must not:

- (a) give information to the Scheme Administrator or any person exercising powers under or in connection with this Act that the first-mentioned person knows to be false or misleading in a material particular, or
- (b) produce a document to the Scheme Administrator or any person exercising powers under or in connection with this Act that the first-mentioned person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Maximum penalty:

- (a) in the case of a body corporate—240 penalty units, or
- (b) in the case of an individual—60 penalty units.

108 Failure to provide documents

If a person is required under this Act to provide a document (including a statement or return) to the Scheme Administrator within a specified time or by a specified date, the person, must not, without reasonable excuse, fail to provide the document by the specified time or the specified date, as the case requires.

Maximum penalty:

- (a) in the case of a body corporate—240 penalty units, or
- (b) in the case of an individual—60 penalty units.

109 Offences by bodies corporate

- (1) If a body corporate commits an offence against this Act, any officer of the body corporate who knowingly authorised or permitted the commission of the offence is also guilty of that offence and liable to the penalty for it.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.
- (3) If in a proceeding for an offence against this section it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.

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- (4) In subsection (1), **officer**, in relation to a body corporate, means: 1
- (a) a director, secretary or executive officer of the body corporate, or 2
 - (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act, or 3 4
 - (c) a person concerned in the management of the body corporate. 5

Division 2 Evidence and records 6

110 Evidence 7

- (1) A document sealed by the Scheme Administrator purporting to be a copy of a document issued or given by the Scheme Administrator under this Act is evidence that the second-mentioned document was so issued or given. 8 9 10 11
- (2) A document sealed by the Scheme Administrator purporting to be a copy of, or an extract from, a renewable energy shortfall statement is evidence of the matter set out in the document to the same extent as the original statement would be if it were produced. 12 13 14 15

111 Records to be kept by registered persons and relevant entities 16

- (1) A person who is a registered person or a relevant entity must keep records that record and explain all transactions and other acts engaged in, or required to be engaged in, by the registered person or relevant entity under this Act. 17 18 19 20
- (2) The records kept by a registered person must include any documents relevant to ascertaining: 21 22
 - (a) the amount of electricity generated by an accredited power station in relation to which the registered person is the nominated person, and 23 24 25
 - (b) the amount of that electricity that was generated from eligible renewable energy sources and from scheme capacity, and 26 27
 - (c) details of all certificates created by the nominated person during the year, and 28 29
 - (d) any other matter required by the scheme rules. 30
- (3) The records kept by a relevant entity must include any documents relevant to ascertaining: 31 32
 - (a) the amount of electricity acquired by the relevant entity under scheme acquisitions during a year, and 33 34
 - (b) any other matter required by the scheme rules. 35

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| (4) | The records must be kept: | 1 |
| (a) | in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language, and | 2
3
4 |
| (b) | so that the relevant entity's liability under this Act can be readily ascertained. | 5
6 |
| (5) | A registered person or relevant entity who has possession of any records kept or obtained under or for the purposes of this Act must retain them until the end of 5 years after those records were prepared or obtained, or the completion of the transactions or acts to which those records relate, whichever is the later. | 7
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| (6) | Nothing in this section requires a registered person or relevant entity to retain records if: | 12
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| (a) | the Scheme Administrator has notified the registered person or relevant entity that the retention of the records is not required, or | 14
15 |
| (b) | the registered person or relevant entity is a company that has gone into liquidation and been finally dissolved. | 16
17 |
| (7) | A registered person or relevant entity who contravenes this section is guilty of an offence. | 18
19 |
| | Maximum penalty: | 20 |
| (a) | in the case of a body corporate—240 penalty units, or | 21 |
| (b) | in the case of an individual—60 penalty units. | 22 |

Division 3 Fees 23

112 Fees 24

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| (1) | The Minister may fix fees or scales of fees for the purposes of this Act. | 25 |
| (2) | The fees may include: | 26 |
| (a) | fees for the registration of certificates, and | 27 |
| (b) | fees for requests for review of reviewable decisions, and | 28 |
| (c) | fees for the lodging of statements, and | 29 |
| (d) | fees for the surrender of certificates. | 30 |
| (3) | In fixing fees, the Minister may have regard to the total amount of the costs and expenses of the Scheme Administrator that are incurred or are likely to be incurred in the exercise of its powers, or in connection with the performance of its functions, under this Act. | 31
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| (4) | The fees must be published by notice in the Gazette and on the internet site of the Scheme Administrator. | 35
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| (5) | Fees take effect on the day that the notice is published in the Gazette or on such later date as is specified in the notice. | 1 |
| | | 2 |
| (6) | The regulations may require the Minister to consult a specified person or body before fixing fees or scales of fees under this section. | 3 |
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Division 4	Scheme rules	5
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113	Scheme rules	6
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| (1) | The Minister may make rules, not inconsistent with this Act or the regulations, for or with respect to any matter required or permitted by this Act to be provided for by the scheme rules or which is necessary or convenient for carrying out or giving effect to this Act. | 7 |
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| (2) | Without limiting subsection (1), rules made may be for or with respect to the following matters: | 11 |
| | | 12 |
| | (a) eligibility of relevant power stations for accreditation, | 13 |
| | (b) eligible renewable energy sources, | 14 |
| | (c) the amount of energy generated by an accredited power station including in respect of pre-scheme capacity and scheme capacity, | 15 |
| | | 16 |
| | (d) electricity generation returns and the audit of those returns, | 17 |
| | (e) scheme acquisitions, | 18 |
| | (f) annual energy acquisition statements and the audit of those statements, | 19 |
| | | 20 |
| | (g) records to be kept by registered persons and relevant entities. | 21 |
| (3) | The rules may apply, adopt or incorporate (with or without modifications): | 22 |
| | | 23 |
| | (a) the provisions of any document issued or published by any person or body, whether as issued or published at the time the rules are made or any time before then or as in force from time to time, and | 24 |
| | | 25 |
| | | 26 |
| | | 27 |
| | (b) the provisions of any Act of the Commonwealth or another State or Territory or a subordinate instrument made under any of those Acts, whether wholly or partially or as amended by the rules or as in force or published at a particular time or from time to time. | 28 |
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| | | 30 |
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| (4) | A rule may: | 32 |
| | (a) apply generally or be of limited application, | 33 |
| | (b) apply differently according to differences in time, place or circumstance, | 34 |
| | | 35 |
| | (c) authorise any matter or thing to be from time to time approved, determined or regulated by a specified person or body. | 36 |
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| (5) | In preparing and consulting on any draft rules, the Minister must provide the public with a reasonable opportunity to comment on the draft rules. | 1
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| (6) | The rules must be published in the Gazette. | 4 |
| (7) | Rules take effect on the day that they are published in the Gazette or on such later date as is specified in the rules. | 5
6 |
| (8) | The Scheme Administrator must make an up to date copy of the rules available for any person to inspect, free of charge, at its office, during ordinary office hours, and on its internet site. | 7
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9 |
| (9) | Section 40 (Notice of statutory rules to be tabled) and section 41 (Disallowance of statutory rules) of the <i>Interpretation Act 1987</i> apply to a rule made under this section in the same way as they apply to a statutory rule. | 10
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Division 5 Miscellaneous 14

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| 114 | Electricity supply arrangements not to increase costs for trade exposed electricity intensive users | 15
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| (1) | 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 this Act. | 17
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20 |
| (2) | A relevant entity must not enter into an arrangement in contravention of subsection (1).
Maximum penalty: | 21
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23 |
| | (a) in the case of a body corporate—240 penalty units, or | 24 |
| | (b) in the case of an individual—60 penalty units. | 25 |
| (3) | A provision of a contract between a relevant entity and a trade exposed electricity intensive user that requires, or purports to require, the trade exposed electricity intensive user to contribute to any of the relevant entity's costs of meeting the entity's obligations under this Act is void. | 26
27
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29 |
| (4) | A <i>trade exposed electricity intensive user</i> means a person or body that is determined by the Minister, by order published in the Gazette, to be a trade exposed electricity intensive user for the purposes of this Act. | 30
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32 |
| (5) | The regulations may make provision for criteria to be applied by the Minister for the purposes of determining whether a person or body is a trade exposed electricity intensive user. | 33
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115	Proceedings for offences	1
(1)	Proceedings for an offence under this Act may be dealt with:	2
(a)	summarily before a Local Court, or	3
(b)	summarily before the Supreme Court in its summary jurisdiction.	4
(2)	If proceedings are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is 100 penalty units, despite any higher maximum monetary penalty provided in respect of the offence.	5 6 7 8
116	Delegation	9
	The Minister may delegate the exercise of any function of the Minister under this Act to:	10 11
(a)	any member of staff of the Department, or	12
(b)	any person, or any class of persons, authorised for the purposes of this section by the regulations.	13 14
117	Regulations	15
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	16 17 18 19
118	Consequential amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	20 21
	The <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> is amended as set out in Schedule 2.	22 23
119	Savings, transitional and other provisions	24
	Schedule 3 has effect.	25
120	Review of Act	26
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	27 28 29
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	30 31
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	32 33

Schedule 1 Required GWh of electricity from eligible renewable energy sources

(Section 66)

1
2
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Column 1	Column 2
Year	Required GWh
2008	439
2009	878
2010	1317
2011	1910
2012	2503
2013	3096
2014	3690
2015	4283
2016	4876
2017	5470
2018	6063
2019	6656
2020	7250
2021	7250
2022	7250
2023	7250
2024	7250
2025	7250
2026	7250
2027	7250
2028	7250
2029	7250
2030	7250

Schedule 2	Consequential amendment of Law	1
	Enforcement (Powers and	2
	Responsibilities) Act 2002	3
	(Section 118)	4
Schedule 2 Search warrants under other Acts		5
Insert in alphabetical order of Acts:		6
<i>Renewable Energy (New South Wales) Act 2007</i> , section 104		7

Schedule 3 Savings, transitional and other provisions

(Section 119)

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.