



New South Wales

# Electricity Supply Amendment (Energy Savings Scheme) Bill 2015

## Explanatory note

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

## Overview of Bill

The principal object of this Bill is to make amendments to the energy savings scheme in the *Electricity Supply Act 1995* (the *principal Act*). Under the scheme, electricity network operators and retailers are required to meet energy savings targets based on their liable acquisitions of electricity. They meet their targets by purchasing and surrendering energy savings certificates, that have been created by accredited certificate providers. The amendments in this Bill include amendments to enable energy savings certificates to be created for activities that involve the consumption of gas, to extend the scheme to 2025 and to increase energy savings targets.

## Outline of provisions

**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 a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Electricity Supply Act 1995 No 94

**Schedule 1 [1]** amends the objects of Part 9 (Energy savings scheme) of the principal Act by replacing references to electricity consumption with references to energy consumption so that the objects will extend to gas savings.

**Schedule 1 [2]–[4]** contain amendments to the definitions section of Part 9 of the principal Act that are consequential, in particular, on the amendments to sections 106 and 129 of the principal Act arising from the extension of the scheme to gas savings.

**Schedule 1 [5]** amends section 105 of the principal Act which establishes criteria for a recommendation by the Minister for a change in an energy savings scheme target for a year or years. The amendment enables the regulations to establish thresholds for the forming of an opinion that a change is appropriate because of an under supply or over supply of energy savings certificates.

**Schedule 1 [6]–[9]** amend section 106 of the principal Act which establishes individual energy savings targets for scheme participants. Instead of the targets being expressed in tonnes of carbon dioxide equivalent of greenhouse gas emissions, the amendments provide that they are to be expressed in units referred to as notional megawatt hours. This is to accommodate the extension of the scheme to energy saving activities involving the consumption of gas. The note that is included makes it clear that the number of notional megawatt hours of individual energy savings targets of scheme participants will not be the same as the number of actual megawatt hours saved by end users as a result of energy saving activities for which energy savings certificates are created.

**Schedule 1 [10]** inserts a new subsection in section 107 of the principal Act to clarify that if a scheme participant purchases electricity from another scheme participant, the purchase is not a liable acquisition if the purchase of the electricity is, or the supply of the electricity is to be treated as, a liable acquisition for that other scheme participant or for a scheme participant who is further up the chain of supply of the electricity (that is, closer to the point of generation).

**Schedule 1 [11]** amends the note to section 110 of the principal Act so that it includes a reference to energy saving activities involving the consumption of gas.

**Schedule 1 [12] and [13]** are amendments that reflect that energy savings shortfalls (as well as targets) are to be expressed in notional megawatt hours.

**Schedule 1 [14]–[19]** amend sections 113 and 114 of the principal Act which relate to penalty rates. The amendments are consequential on the amendments that change the units in which energy savings targets and shortfalls are expressed to notional megawatt hours and on the amendments that simplify the scheme by omitting Schedule 5A. The methodology for adjusting the rates for movements in the Consumer Price Index for Sydney will continue to be dealt with in the regulations. As with the amendment to section 105 of the principal Act, the amendment in **Schedule 1 [18]** to section 114 of the principal Act enables the regulations to establish thresholds for the forming of an opinion by the Minister that a change to the base penalty rate is appropriate because of an under supply or over supply of energy savings certificates.

**Schedule 1 [20]** makes an amendment to section 116 of the principal Act that is consequential on the extension of the scheme to 2025 by the amendment to section 178 of the principal Act.

**Schedule 1 [21]** amends section 122 of the principal Act which deals with the mechanics of exemptions from the scheme for an industry or activity that is both emissions intensive and trade exposed and the mechanics of revocations of exemptions. Instead of an exemption or revocation taking effect at the beginning of the year after the order granting or revoking the exemption is made, the amendments provide that the exemption or revocation takes effect on publication of the order in the Gazette or on a later day specified in the order.

**Schedule 1 [22]** amends section 124 of the principal Act to prevent an energy savings certificate being surrendered by a scheme participant for the purposes of meeting its individual energy savings target or remedying a carried forward shortfall if it relates to energy saving activities outside New South Wales unless the activity occurred in a State or Territory for which there is an approved corresponding scheme and the Minister has approved the surrender in New South Wales of such certificates for those purposes.

**Schedule 1 [23]** makes an amendment to section 127 of the principal Act so that it includes references to energy saving activities involving the consumption of gas.

**Schedule 1 [24]** amends section 127 of the principal Act to require the approval of a corresponding scheme by the Minister to be by order published in the Gazette. This is designed to provide appropriate evidence of the approval.

**Schedule 1 [25]** makes an amendment to section 128 of the principal Act so that energy savings certificates will relate to energy savings expressed in notional megawatt hours.

**Schedule 1 [26]** replaces section 129 of the principal Act which sets out how energy savings attributable to recognised energy saving activities are to be calculated. The amendment contemplates certificate conversion factors for both electricity and gas and for the scheme rules to provide for the methodology for calculating the number of megawatt hours of energy savings arising from a recognised energy saving activity and for applying the certificate conversion factors.

**Schedule 1 [27]–[31]** amend section 130 of the principal Act to introduce a separate certificate conversion factor for gas, namely, 0.39, and by making amendments necessary to simplify the presentation of the scheme by omitting Schedule 5B.

**Schedule 1 [32]** makes an amendment to section 135 of the principal Act related to the expansion of energy saving activities to include activities involving the consumption of gas.

**Schedule 1 [33] and [34]** amend section 142 of the principal Act which sets out the circumstances in which the Scheme Administrator may require surrender of energy savings certificates. Instead of the person having to have been found guilty of certain offences, the amendment provides that surrender may be required if the Scheme Administrator is satisfied, on the balance of probabilities on the basis of an audit conducted under the principal Act or the regulations or of information otherwise obtained by the Administrator under the principal Act or the regulations, that the person is guilty of an offence.

**Schedule 1 [35] and [36]** amend section 143 of the principal Act which requires energy savings certificates to be registered. The amendments contemplate that the fee for an application for registration of a certificate set out in the regulations will be subject to CPI increases as set out in the regulations.

**Schedule 1 [37]** amends the functions of the Scheme Regulator set out in section 152 of the principal Act to include the function of providing advice to the Minister on request about the extent of any under supply or over supply of energy savings certificates that may be surrendered under Part 9 of the principal Act.

**Schedule 1 [38]** mirrors the amendment to the functions of the Scheme Regulator in the functions of the Scheme Administrator set out in section 154 of the principal Act.

**Schedule 1 [39]** amends section 163 of the principal Act which sets out matters that must be included on the register of energy savings certificates. The amendment requires that, for an activity that takes place outside New South Wales under an approved corresponding scheme, the register must include the State or Territory in which the activity occurred.

**Schedule 1 [40]** makes an amendment to section 167 (Scheme rules) of the principal Act consequential on the amendment to section 129 of the principal Act.

**Schedule 1 [41]–[44]** amend section 174 of the principal Act which sets out matters to be included in the Scheme Regulator's annual report. The amendments require further statistics and assessments to be included in the report relevant to the question of whether there is an under supply or over supply of energy savings certificates that may be surrendered and clarify that existing references to actual energy savings relate to savings realised by end users.

**Schedule 1 [45]** amends section 178 of the principal Act to extend the scheme from the end of 2020 to the end of 2025.

**Schedule 1 [46] and [47]** amend section 187 of the principal Act which allows for penalty notices. The current provision empowers an authorised officer or police officer to issue a penalty notice. However, an authorised officer under the principal Act is a person authorised by an electricity entity who is given certain powers such as the power to enter a property to read a meter. The amendment alters the reference in this provision to enforcement officer defined as an employee of a government sector agency (within the meaning of the *Government Sector Employment Act 2013*) authorised in writing by the Minister to act as an enforcement officer.

**Schedule 1 [48]** increases the energy savings targets and energy conversion factors for 2016 to 2020 set out in Schedule 5 to the principal Act and adds targets and factors for 2021 to 2025.

**Schedule 1 [49]** omits Schedules 5A and 5B from the principal Act. The material contained in these Schedules is moved to the relevant provisions in the body of the principal Act for the purposes of simplifying the presentation of the scheme.

**Schedule 1 [50]** inserts a transitional provision into Schedule 6 to the principal Act relevant to converting energy savings certificates and energy savings shortfalls to notional megawatt hours. Other transitional provisions may be included in the regulations as provided for by clause 1 (1) of Schedule 6 to the principal Act.