



## Renewable Energy (Electricity) (Charge) Amendment Bill 2009

Angus Martyn  
Law and Bills Digest Section

### Contents

Purpose.....	2
Background.....	2
Financial implications.....	3
Main provisions .....	4
Schedule 1 – Amendment of the <i>Renewable Energy (Electricity) (Charge) Act 2000</i> .....	4

## Renewable Energy (Electricity) (Charge) Amendment Bill 2009

**Date introduced:** 17 June 2009

**House:** House of Representatives

**Portfolio:** Climate Change and Water

**Commencement:** The day after Royal Assent.

**Links:** The *relevant links* to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

The Renewable Energy (Electricity) (Charge) Amendment Bill 2009 (the Bill) amends the *Renewable Energy (Electricity) (Charge) Act 2000* (the Charge Act) to increase the renewable energy shortfall charge from its current \$40 to \$65.

### Background

Along with the Renewable Energy (Electricity) Amendment Bill 2009, this Bill is designed to give effect to the Government's commitment to replace the existing Mandatory Renewable Energy Target (MRET) scheme with a national Renewable Energy Target (RET) scheme. Background on both the MRET and RET, and relevant policy issues, is contained in the [Digest](#) for the Renewable Energy (Electricity) Amendment Bill 2009.<sup>1</sup>

This Bill increases the shortfall charge potentially payable by certain liable entities – generally Australian electricity retailers and other large buyers of electricity – under the both the MRET and proposed RET. Such a charge is payable when such entities fail to surrender to the Renewable Energy Regulator (the relevant Commonwealth regulatory body) sufficient 'renewable energy certificates' (RECs) to cover their required purchases of electricity generated from renewable sources.<sup>2</sup> Liable entities will generally acquire the

1. A Martyn, *Renewable Energy (Electricity) Amendment Bill 2009*, Bills Digest, No. 182, 2008–09, Parliamentary Library, Canberra, 2009, viewed 4 August 2009, <http://www.aph.gov.au/Library/pubs/bd/2008-09/09bd182.pdf>
2. The bulk of RECs are created by accredited power stations that generate power from renewable energy sources in excess of a 1997 'baseline' amount, although they can also be generated eligible solar water heater and eligible small generation units.

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RECs by purchasing them. The shortfall charge will increase from \$40 to \$65 – thus if a liable entity surrendered 100 too few RECs, their liability under the charge would be \$6500. However, it appears that such entities do generally surrender sufficient RECs to avoid the shortfall charge:

According to data published by the Office of the Renewable Energy Regulator, there has been a consistently high level of compliance with the mandatory renewable energy target since the scheme began in 2001, which means that very few liable parties have, in fact, needed to pay the shortfall charge. The new shortfall charge seeks to encourage affordable deployment of renewable energy through continued high levels of compliance, while taking into account the significant increase in annual targets under the expanded scheme.<sup>3</sup>

In this respect, the relevant part of the 2008 annual report of the Office of the Renewable Energy Regulator comments:

for the 2007 compliance period, only 3 out of the 70 liable parties had individual shortfalls. The 2007 shortfall was effectively 6,333 RECs. **As on 31 December 2008 more than 99.45 percent of the 2007 liability was met by the surrender of RECs.** [emphasis added]<sup>4</sup>

The shortfall charge is effectively a tax. Section 55 of the Constitution requires any law imposing a tax cannot deal with any other matter. The Renewable Energy (Electricity) Amendment Bill 2009 covers non-tax issues, hence the need for two separate Bills.

## Financial implications

The relevant part of the Explanatory Memorandum refers readers to the Explanatory Memorandum for the Renewable Energy (Electricity) Amendment Bill 2009, which states:

As part of the 2008-09 Budget, the Government provided \$15.5 million over five years for the Office of the Renewable Energy Regulator to administer the expanded Renewable Energy Target. The measure included \$2.2 million over two years in capital funding to modify and expand the capacity of the renewable energy certificate online register and \$14.0 million over five years in administered revenue from the increased trade in Renewable Energy Certificates.<sup>5</sup>

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3. G Combet, 'Second reading speech: Renewable Energy (Electricity) (Charge) Amendment Bill 2009', House of Representatives, *Debates*, 17 June 2009, p. 6254.
  4. Office of the Renewable Energy Regulator, *Annual Report 2008*, viewed 4 August 2009, p. 24. See <http://www.orer.gov.au/publications/pubs/2008-administrative-report.pdf>
  5. Explanatory Memorandum, Renewable Energy (Electricity) Amendment Bill 2009, p. 2.

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The proposed increase in the shortfall charge could potentially increase revenue to the Commonwealth. However, assuming the situation (of very small shortfalls) described above remains into the future, any extra revenue is likely to be modest.

## **Main provisions**

### Schedule 1 – Amendment of the *Renewable Energy (Electricity) (Charge) Act 2000*

**Item 1** changes the shortfall charge from \$40 to \$65.

**Item 2** provides that the increased charge applies from 1 January 2010 and runs until 31 December 2030.<sup>6</sup>

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6. Although obviously the amount of the shortfall charge may be changed again through any subsequent amendment of the Act.

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