



Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Bill 2010

Anita Talberg
Science, Technology, Environment and Resources Section

Juli Tomaras
Law and Bills Digest Section

Contents

Purpose.....	2
Background.....	2
Financial implications.....	3
Main provisions	3

Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Bill 2010

Date introduced: 12 May 2010

House: House of Representatives

Portfolio: Climate Change, Energy Efficiency and Water

Commencement: Sections 1 and 2 on Royal Assent. Sections 3 to 7 commence at the same time as Part 1 of Schedule 1 of the Renewable Energy (Electricity) Amendment Bill 2010, that is, 1 January 2011.¹

Links: The [links](#) to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bills page, 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

Relating to the generation of electricity from small-scale renewable energy projects, the Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Bill 2010 (the Bill) sets the rate of charge payable under the *Renewable Energy (Electricity) (Charge) Act 2000* (the Charge Act). It sets the small-scale renewable energy shortfall charge at \$65.

Background

This Bill supports the amendments outlined in the Renewable Energy (Electricity) Amendment Bill 2010 to separate the existing Renewable Energy Target (RET) scheme into two parts: the Large-scale Renewable Energy Target (LRET) and the Small-scale Renewable Energy Scheme (SRES). Details and background on the enhanced RET (eRET) scheme, the LRET and the SRES are contained in the [Digest](#) of the Renewable Energy (Electricity) Amendment Bill 2010.²

Under the current RET scheme, liable entities (electricity retailers and other wholesale electricity buyers) that fail to surrender sufficient ‘renewable energy certificates’ (RECs) to the relevant Commonwealth regulatory body must pay a ‘shortfall’ charge of \$65 per mega-watt hour. The REC liability is calculated as a percentage of the electricity

-
1. Assuming that Bill is passed in its current form.
 2. A Talberg & J Tomaras, *Renewable Energy (Electricity) Amendment Bill 2010*, Bills Digest, No. 166, 2009–10, Parliamentary Library, Canberra, 2010, viewed 11 June 2010.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

purchased or generated, and known as the renewable power percentage (RPP). The RPP encompasses both large-scale and small-scale generation of renewable energy for electricity.

Under the proposed eRET, liable entities will still have to surrender the relevant numbers of RECs or face a shortfall charge. They will be required to surrender RECs generated *both* under the LRET (such RECs are known as LRECs) and or SRES (such RECs are known as SRECs). This Bill specifies that the shortfall charge in relation to SRECs, is \$65, the same as both the charge under the existing RET scheme and the charge that will apply for LRECs. The charge relating to LRECs is to be set by a companion Bill, the Renewable Energy (Electricity) (Charge) Amendment Bill 2010.

The splitting of the SREC and LRET shortfall charges into separate legislative devices could potentially allow future flexibility in altering one independently of the other.

Financial implications

The relevant part of the Explanatory Memorandum refers readers to the Explanatory Memorandum for the Renewable Energy (Electricity) Amendment Bill 2010, which states:

The Office of the Renewable Energy Regulator (ORER) will receive an additional \$6 million in 2010-11 to implement the changes outlined in this Bill. This includes \$4.5 million in capital funding to modify and expand the existing information technology system to enable the ORER to implement the clearing house functions.

The impact on Government revenue is dependent on any change in the number of renewable energy certificates that are traded. Administered revenue is received by the ORER from a number of statutory fees including fees for the creation and surrender of renewable energy certificates.³

Main provisions

Clause 3 makes it clear that identical expressions used in this Act and the *Renewable Energy (Electricity) Act 2000* will have the same meaning.

Clause 4 provides that, while the Act will not bind the Crown in right of the Commonwealth, it will bind the Crown in right of each of the States, the Australian Capital Territory and the Northern Territory.

Clause 5 imposes the small-scale technology shortfall charge that is payable under the *Renewable Energy (Electricity) Act 2000*.

3. Explanatory Memorandum, Renewable Energy (Electricity) Amendment Bill 2010, p. 3.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Clause 6 establishes a separate rate of shortfall charge (penalty) at \$65 per megawatt hour for the failure to surrender a mandated quantity of RECs annually.

Clause 7 makes it clear that the Act does not impose a tax on ‘property of any kind, belonging to a State’.⁴

4. ‘Property of any kind belonging to a State’ has the same meaning as in section 114 of the Commonwealth Constitution.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

© Copyright Commonwealth of Australia

This work is copyright. Except to the extent of uses permitted by the *Copyright Act 1968*, no person may reproduce or transmit any part of this work by any process without the prior written consent of the Parliamentary Librarian. This requirement does not apply to members of the Parliament of Australia acting in the course of their official duties.

This work has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

Feedback is welcome and may be provided to: web.library@aph.gov.au. Any concerns or complaints should be directed to the Parliamentary Librarian. Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Entry Point for referral.

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2421.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.