

ELECTRICITY INDUSTRY (WESTERN AUSTRALIAN RENEWABLE ENERGY TARGETS) AMENDMENT BILL 2005

EXPLANATORY MEMORANDUM

(Introduced by Hon Paul Llewellyn MLC)

Electricity retailers in Australia currently operate under a Commonwealth scheme, the Mandatory Renewable Energy Target scheme, which established a national renewable energy model based on tradeable certificates. The MRET scheme has had limited impact in Western Australia with the scheme failing to mobilise the real potential of renewable-generated electricity capable of being produced economically in Western Australia.]

The *Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005* amends the *Electricity Industry Act 2004* to impose on licensed retailers who operate within the South West Interconnected System an obligation to purchase a target percentage of its total electricity purchases within the SWIS from renewable sources. The obligation takes the form of a condition attaching to the retailer's licence. The obligation takes effect from 1 January 2008 and increases gradually providing ample time for retailers to position for the impact.

The targets under the *Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005* are higher than under the Commonwealth scheme. Further, the targets increase incrementally over the period 2008 to 2020, with a target of 20% by 2020.

Where a retailer fails to meet its obligation to purchase the target proportion of electricity from renewable sources, the *Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005* amends the enforcement provisions of the *Electricity Industry Act 2004* to impose a penalty calculated by reference to the amount, in megawatt hours, by which the licensee fell short of the target. The penalty is discretionary and may be waived by the Economic Regulation Authority.

Although there is no provision for a licensee to carry a surplus from a previous year to the current year, a previous surplus over and above the licensee's obligations is a factor that the Authority must take into account in deciding whether to impose the penalty. Previous breaches of the licence condition by the licensee must also be taken into account. Where the renewable energy market is unable to provide enough electricity to allow a licensee to meet its obligations this must also be taken into account, although the extent of the licensee's efforts to obtain electricity from renewable sources is also to be considered.

Where the licensee is using electricity in the production of materials or generating works to be used in the production of electricity from renewable sources, for example in the production of photovoltaic silicon, the Authority has discretion to reduce the renewable energy target for the licensee for the current year and/or subsequent years. When exercising this discretion the Authority must have regard to the amount of electricity purchased by the licensee and the proportion of it used in producing materials or generating works, the amount of renewable energy acquired by the licensee, the nature of the licensee's operations and any other relevant factor.

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In order to demonstrate that it has met its renewable target a licensee is required to file, as soon as practicable after December 31 of each year, a renewable energy statement detailing the total amount of electricity purchased by the licensee for the year and the proportion of that electricity attributable to renewable energy sources. Where an electricity purchase is attributed to renewable sources details of the transaction must be provided. This obligation takes the form of a licence condition.

Part 1 – Preliminary

Clause 1 Short Title

Provides for the Act to be cited as the *Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005*.

Clause 2 Commencement

Provides for this Act to come into operation on a day fixed by proclamation.

Part 2 – Amendment of *Electricity Industry Act 2004*

Clause 3 The Act amended

Provides that amendments in this Part are to the *Electricity Industry Act 2004*.

Clause 4 Section 3 amended

Amends section 3 of the *Electricity Industry Act 2004* to include definitions of 'renewable electricity percentage' and 'renewable energy target'.

Clause 5 Sections 14A to 14D inserted

Adds sections 14A to 14D to the *Electricity Industry Act 2004*.

Section 14A imposes as a licence condition on holders of retail licences an obligation to acquire an amount of electricity from renewable energy sources that equals or exceeds their renewable energy target for each year. The section also provides the mechanism for calculating the renewable energy target. The operation of the section commences on 1 January 2008.

Section 14B imposes as a licence condition on holders of a retail licences an obligation to submit to the Economic Regulation Authority a renewable energy statement for the year.

Section 14C provides that the Authority may reduce a licensee's renewable energy target for the year and/or subsequent years, and provides factors which the Authority must take into account in deciding whether to reduce a licensee's renewable energy target.

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Section 14D provides a definition of 'electricity from renewable energy sources'. This definition has largely been adopted from the Commonwealth *Renewable Energy (Electricity) Act 2000*.

Clause 6 Section 32 amended

Amends section 32 to provide additional penalties for breaches of the licence condition contained in section 14A. The penalty for a breach of this condition is calculated by reference to the entity's shortfall in its renewable energy target for the year. The penalty is discretionary and may be waived by the Economic Regulation Authority. The section prescribes factors which must be considered by the Authority in the exercise of its discretion to impose a penalty.

Clause 7 Section 33 amended

This is a consequential amendment resulting from the amendment to section 32 of the *Electricity Industry Act 2004* made by Clause 6.

Clause 8 Section 134 added

Adds provision for the operation of sections 14A to 14D to be reviewed by the responsible Minister as soon as is practicable after 31 December 2010 (i.e. after three years of the operation of this amending Act), and to report the findings of that review to Parliament.