



New South Wales

# Electricity Supply (General) Amendment (Energy Security Safeguard Schemes) Regulation 2022

under the

Electricity Supply Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Supply Act 1995*.

MATT KEAN, MP  
Minister for Energy

## Explanatory note

The object of this Regulation is to make a range of amendments to the *Electricity Supply (General) Regulation 2014* dealing with the energy savings scheme (**ESS**) and the peak demand reduction scheme (**PDRS**) consequent on the *Energy Legislation Amendment Act 2021*, the *COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020* and the *Electricity Supply Amendment (Peak Demand Reduction Scheme) Regulation 2021*, including the following—

- (a) updating cross-references to the *Electricity Supply Act 1995* following the transfer of provisions establishing the ESS to the Act, Schedule 4A,
- (b) amending existing administrative arrangements and fee provisions for the ESS,
- (c) establishing administrative arrangements for the PDRS,
- (d) establishing a fee structure for the PDRS,
- (e) establishing a civil penalty provision regime for the ESS and the PDRS.

## **Electricity Supply (General) Amendment (Energy Security Safeguard Schemes) Regulation 2022**

under the

Electricity Supply Act 1995

### **1 Name of Regulation**

This Regulation is the *Electricity Supply (General) Amendment (Energy Security Safeguard Schemes) Regulation 2022*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Electricity Supply (General) Regulation 2014

### [1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

**approved auditor**—

- (a) for Part 6, see clause 28, and
- (b) for Part 7, see clause 59B.

**assessment**—

- (a) for Part 6, Division 3, see clause 31, and
- (b) for Part 7, Division 2, see clause 62A.

**biodiesel** has the same meaning as it has in the *Biofuels Act 2007*.

**biofuel** means a liquid fuel derived from biomass and includes biodiesel and ethanol.

**biogas** means gaseous fuel derived or recovered from biomass.

**biomass** means organic matter other than fossilised organic matter.

**close associate** means—

- (a) for a corporation—
  - (i) a director or officer of the corporation, or
  - (ii) a related body corporate of the corporation, or
- (b) for an individual—a corporation of which the individual is a director or an officer.

**corresponding scheme**—

- (a) for Part 6, see clause 28, and
- (b) for Part 7, see clause 59B.

**diesel fuel** has the same meaning as it has in the *Biofuels Act 2007*.

**ethanol** has the same meaning as it has in the *Biofuels Act 2007*.

**insolvency official** has the same meaning as it has in the *National Energy Retail Law (NSW)*, Part 6.

**liquefied petroleum gas** has the same meaning as it has in the *Gas and Electricity (Consumer Safety) Act 2017*.

**natural gas** has the same meaning as it has in the *National Gas (NSW) Law*.

**onsite renewable energy** means energy generated at the site at which it is used from a recognised energy saving activity using 1 or more of the following renewable energy sources—

- (a) solar,
- (b) wind,
- (c) geothermal aquifer,
- (d) hot dry rock,
- (e) hydro,
- (f) wave,
- (g) tide,
- (h) ocean.

**related body corporate** has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

**[2] Clause 28 Definitions**

Omit clause 28(2).

**[3] Clause 29 Direct suppliers of electricity**

Omit “section 101(2) of the Act,” from clause 29(1).

Insert instead “the Act, Schedule 4A, clause 4(2),”.

**[4] Clause 29(1)(a)**

Omit “Limited,”. Insert instead “Limited (ACN 167 859 494),”.

**[5] Clause 29(2)**

Omit “section 107(2)(b) of the Act”.

Insert instead “the Act, Schedule 4A, clause 10(2)(b)”.

**[6] Clauses 29A and 29B**

Insert after clause 29—

**29A Recognised form of energy**

For the Act, Schedule 4A, clause 2, definition of *recognised form of energy*, paragraph (c), the following forms of energy are prescribed—

- (a) biofuel,
- (b) biogas,
- (c) biomass,
- (d) diesel fuel,
- (e) liquefied petroleum gas,
- (f) natural gas,
- (g) onsite renewable energy.

**29B Relevant agency**

For the Act, Schedule 4A, clause 69A(3), definition of *relevant agency*, paragraph (b), the following are prescribed—

- (a) the person appointed as the administrator under the *Energy Efficiency (Cost of Living) Improvement Act 2012* of the Australian Capital Territory, section 23,
- (b) the Australian Energy Regulator established by the *Competition and Consumer Act 2010* of the Commonwealth, section 44AE,
- (c) the Australian Transaction Reports and Analysis Centre established by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth, section 209,
- (d) the Clean Energy Regulator established by the *Clean Energy Regulator Act 2011* of the Commonwealth, section 11,
- (e) the Essential Services Commission established by the *Essential Services Commission Act 2002* of South Australia, section 4(1),
- (f) the Essential Services Commission established by the *Essential Services Commission Act 2001* of Victoria, section 7(1),
- (g) AEMO,
- (h) the Australian Federal Police,

(i) the NSW Police Force.

**[7] Clause 30 CPI adjustment to base penalty rates**

Omit “Pursuant to section 113(2)(a)(ii) of the Act—”.

Insert instead “Under the Act, Schedule 4A, clause 16(2)(a)(ii)—”.

**[8] Clause 30(c)**

Omit “and each subsequent year”. Insert instead “, 2018, 2019, 2020, 2021 and 2022”.

**[9] Clause 30(d)**

Insert at the end of clause 30(c)—

, and

(d) for 2023 and each subsequent year—the base penalty rate for the year is the amount per notional megawatt hour calculated as follows, rounded up to the nearest cent—

$$\text{Base penalty rate}_{\text{year}} = 31.86 \times \frac{\text{CPI}_{\text{year-1}}}{\text{CPI}_{\text{Sep 21}}}$$

where—

*Base penalty rate<sub>year</sub>* means the base penalty rate for the year concerned.

*CPI<sub>year-1</sub>* means the Consumer Price Index for the September quarter of the immediately preceding year.

*CPI<sub>Sep 21</sub>* means the Consumer Price Index for the September quarter 2021.

**[10] Part 6, Division 4, heading**

Omit the heading. Insert instead—

**Division 4 Creation of certificates and accreditation of providers**

**[11] Clause 37A**

Insert before clause 38—

**37A Certificate conversion factor—forms of energy other than electricity**

For the Act, Schedule 4A, clause 33A(1), the certificate conversion factor for the following forms of energy is—

- (a) for biofuel—0.21,
- (b) for biogas—0.17,
- (c) for biomass—0.08,
- (d) for diesel fuel—0.47,
- (e) for natural gas and liquefied petroleum gas—0.47,
- (f) for onsite renewable energy—0.

**[12] Clause 38 Eligibility for accreditation**

Omit “and the person is eligible for accreditation in respect of the activity under the scheme rules” from clause 38(1)(a).

**[13] Clause 39**

Omit the clause. Insert instead—

**39 Application for accreditation**

An application for accreditation as an energy savings certificate provider for an activity must—

- (a) be made in the way approved by the Scheme Administrator, and
- (b) be accompanied by the information relating to the activity the Scheme Administrator requires, and
- (c) be accompanied by the fee set out in Schedule 3.

**Note—** The Act, Schedule 4A, clause 39(5) allows the Scheme Administrator to charge a fee for investigating and determining an application for accreditation, in addition to the application fee.

**[14] Clause 40**

Omit the clause. Insert instead—

**40 Undertakings**

- (1) The Scheme Administrator may require an applicant to give an undertaking to not claim a benefit under a corresponding scheme if claiming the benefit would result in a benefit being obtained under more than 1 scheme for the same energy savings.
- (2) The Scheme Administrator may require an applicant to give an undertaking that, if the applicant is granted accreditation subject to an audit condition, the applicant will withhold from transfer a proportion of the energy savings certificates created by the applicant pending the result of the audit.
- (3) The Scheme Administrator may require an accredited energy savings certificate provider whose accreditation is subject to an audit condition to give an undertaking to withhold from transfer a proportion of the energy savings certificates created by the provider pending the result of the audit.
- (4) The Scheme Administrator must not require a person to give an undertaking to withhold from transfer more than 20% of the energy savings certificates created by the person.
- (5) An undertaking must be given in the form approved by the Scheme Administrator.
- (6) In this clause—

**applicant** means a person who applies for accreditation as an energy savings certificate provider.

**audit condition** means a condition requiring an audit under clause 56 of the creation of energy savings certificates.

**[15] Clause 41 Grounds for refusal of application for accreditation**

Omit “in respect of an activity” from clause 41(1). Insert instead “for an activity”.

**[16] Clause 41(1)(a)**

Omit “in respect of the activity concerned”. Insert instead “for the activity”.

**[17] Clause 41(1)(b)**

Omit “duly made (including if it is not accompanied by any required information or the appropriate fee)”.

Insert instead “properly made”.

**[18] Clause 41(1)(c)**

Omit “any undertaking (in terms satisfactory to the Scheme Administrator) that is required to be given under clause 40 in connection with the application”.

Insert instead “an undertaking required to be given under clause 40”.

**[19] Clause 41(1)(d) and (e)**

Insert at the end of clause 41(1)(c)—

, or

- (d) the Scheme Administrator is not satisfied the applicant is competent to be an energy savings certificate provider for the activity, or
- (e) the Scheme Administrator is satisfied the applicant is not a fit and proper person.

**[20] Clause 41(3)–(5)**

Insert after clause 41(2)—

- (3) An individual may not be a fit and proper person if the individual—
  - (a) has, in the previous 10 years, been found guilty of an offence involving fraud or dishonesty, whether in New South Wales or elsewhere, or
  - (b) has been found guilty of an offence under the Act or this Regulation.
- (4) A corporation may not be a fit and proper person if a person who is a director of the corporation or otherwise involved in the management of the corporation is not a fit and proper person under this clause.
- (5) Subclauses (3) and (4) do not limit the grounds on which the Scheme Administrator may be satisfied an applicant is not a fit and proper person.

**[21] Clause 42 Suspension or cancellation of accreditation**

Insert “, or a close associate of the person,” after “person” in clause 42(1)(c).

**[22] Clause 42(1)(e)**

Omit “a controller or administrator”.

Insert instead “an insolvency official”.

**[23] Clause 42(1)(f) and (g)**

Insert after clause 42(1)(e)—

- (f) the Scheme Administrator is satisfied the person is not competent to be an energy savings certificate provider for the activity,
- (g) the Scheme Administrator is satisfied the person is not a fit and proper person.

**[24] Clause 42(4)–(6)**

Insert after clause 42(3)—

- (4) An individual may not be a fit and proper person if the individual—

- (a) has, in the previous 10 years, been found guilty of an offence involving fraud or dishonesty, whether in New South Wales or elsewhere, or
  - (b) has been found guilty of an offence under the Act or this Regulation.
- (5) A corporation may not be a fit and proper person if a person who is a director of the corporation or otherwise involved in the management of the corporation is not a fit and proper person under this clause.
- (6) Subclauses (4) and (5) do not limit the grounds on which the Scheme Administrator may be satisfied an applicant is not a fit and proper person.

**[25] Clause 43 Transfer of accreditation**

Insert “must” after “provider”.

**[26] Clause 43**

Omit “is to” wherever occurring.

**[27] Clause 43(a)**

Omit “form and manner”. Insert instead “way”.

**[28] Clause 43A**

Insert after clause 43—

**43A Application to amend accreditation**

- (1) An accredited certificate provider may apply to the Scheme Administrator to amend the activities for which the provider is accredited.
  - (2) An application must be—
    - (a) made in the way approved by the Scheme Administrator, and
    - (b) accompanied by information required by the Scheme Administrator.
- Note—** The Act, Schedule 4A, clause 42(6) allows the Scheme Administrator to charge a fee for investigating and determining an application to amend a provider’s accreditation.

**[29] Clause 44 Conditions of accreditation**

Omit “section 138(1)(a) of the Act”. Insert instead “the Act, Schedule 4A, clause 41(1)(a)”.

**[30] Clause 46 Record keeping**

Omit “form and manner” from clause 46(4). Insert instead “way”.

**[31] Clause 47 Co-operation with audits**

Omit “any information and assistance that is necessary to comply with any” from clause 47(1).

Insert instead “the information and assistance required for an”.

**[32] Clause 47(2)**

Omit the subclause. Insert instead—

- (2) Without limiting subclause (1), an accredited certificate provider must give a person conducting an audit access to the provider’s premises that the person reasonably requires for the purpose of the audit.



**[33] Clause 48 Imposition of conditions by Scheme Administrator**

Omit “section 138(1)(b) of the Act” from clause 48(1).

Insert instead “the Act, Schedule 4A, clause 41(1)(b)”.

**[34] Clause 49 Financial assurances**

Omit “section 142 of the Act” wherever occurring in clause 49(1), (4)(a), (6) and (7).

Insert instead “the Act, Schedule 4A, clause 45”.

**[35] Clause 50**

Omit clause 50. Insert instead—

**50 Application to vary or revoke conditions of accreditation**

(1) An accredited certificate provider may apply to the Scheme Administrator to vary or revoke a condition of the provider’s accreditation.

(2) An application must—

(a) be made in the way approved by the Scheme Administrator, and

(b) be accompanied by the information the Scheme Administrator requires.

**Note—** The Act, Schedule 4A, clause 42(6) allows the Scheme Administrator to charge a fee for investigating and determining an application to amend a provider’s accreditation.

**[36] Clause 51 Registration of creation of certificates**

Omit “is to” wherever occurring in clause 51(1) and (2). Insert instead “must”.

**[37] Clause 51(1)**

Omit “form and manner”. Insert instead “way”.

**[38] Clause 51(3)(b)**

Omit “duly made (including if it is not accompanied by the appropriate fee)”.

Insert instead “properly made or is incomplete”.

**[39] Clause 51(3)(c)**

Omit “that the applicant was entitled to create an energy savings certificate in respect of the activity”.

Insert instead “the applicant was entitled to create the certificate”.

**[40] Clause 51(3)(d)**

Omit “of the opinion that”. Insert instead “satisfied”.

**[41] Clause 51(4)**

Omit “determination” wherever occurring. Insert instead “refusal”.

**[42] Clause 52 Form of energy savings certificates**

Omit “section 127 of the Act” from clause 52(2)(b1).

Insert instead “the Act, Schedule 4A, clause 30”.

**[43] Clause 53 Order requiring surrender of energy savings certificates**

Omit clause 53(1). Insert instead—

- (1) This clause applies if—
- (a) an order is made or proposed to be made under the Act, Schedule 4A, clause 45 against a person, and
  - (b) the order is made or proposed to be made because the Scheme Administrator is satisfied the person is guilty of an offence of contravening a condition of the person's accreditation as a certificate provider referred to in clause 44, and
  - (c) the condition was contravened because the person did not comply with an undertaking given under clause 40.

**Note—** see clauses 44 and 45.

**[44] Clause 53(2)**

Omit “section 142(4) of the Act”. Insert instead “the Act, Schedule 4A, clause 45(4)”.

**[45] Clause 53(2)(a)**

Omit “clause 40(a)”. Insert instead “clause 40(1)”.

**[46] Clause 53(2)(b)**

Omit “clause 40(b)”. Insert instead “clause 40(2) or (3)”.

**[47] Clause 54 Registration of transfer of certificates**

Omit “form and manner” from clause 54(1). Insert instead “way”.

**[48] Clause 58 Register of accredited certificate providers**

Omit “(in addition to the information specified in section 162(1)(a) of the Act)” from clause 58(1).

Insert instead “, in addition to the information specified in the Act, Schedule 4A, clause 65(1)(a)”.

**[49] Clause 58(3)**

Omit “section 162 of the Act (in addition to the information referred to in section 162(1)(a) of the Act)”.

Insert instead “the Act, Schedule 4A, clause 65, in addition to the information referred to in the Act, Schedule 4A, clause 65(1)(a)”.

**[50] Clauses 58AA and 58AB**

Insert after clause 58—

**58AA Register of persons refused accreditation**

For the Act, Schedule 4A, clause 65A(c), the register of persons refused accreditation as accredited certificate providers must include the following information about each person refused accreditation—

- (a) the date the person's application for accreditation was made,
- (b) the date the person's application for accreditation was refused,
- (c) the activities for which the person applied for accreditation.

**58AB Information from registers**

For the Act, Schedule 4A, clause 67(d), the following information is prescribed in relation to a person refused accreditation as an accredited certificate provider—

- (a) the name of the person,
- (b) the date the person's application for accreditation was made,
- (c) the date the person's application for accreditation was refused,
- (d) the activities for which the person applied for accreditation,
- (e) the reasons the person was refused accreditation.

**[51] Clause 58A Conditions under which energy savings scheme targets may be changed**

Omit "sections 105(b) and 114(4)(b) of the Act" from clause 58A(1).

Insert instead "the Act, Schedule 4A, clauses 8(b) and 17(4)(b)".

**[52] Clause 59 Decisions reviewable by Civil and Administrative Tribunal**

Omit "section 171(2)(d) of the Act".

Insert instead "the Act, Schedule 4A, clause 73(2)(d)".

**[53] Clause 59(a1)**

Insert after clause 59(a)—

- (a1) a decision of the Scheme Administrator to refuse to vary the activities for which an accredited certificate provider is accredited,

**[54] Clause 59A**

Insert after clause 59—

**59A Annual report by Scheme Regulator**

For the Act, Schedule 4A, clause 76(1A)(a), the prescribed date is 31 July in the subsequent year.

**[55] Clause 59B**

Insert before clause 60—

**Division 1 Preliminary**

**59B Definitions**

In this Part—

*approved auditor* means a person required to conduct an audit under Division 7.

*corresponding scheme* means a scheme or arrangement with similar objectives to the peak demand reduction scheme.

**59C Direct suppliers of electricity**

- (1) For the Act, Schedule 4A, clause 81, definition of *direct supplier of electricity*, the following electricity generators are prescribed—
  - (a) AGL Macquarie Pty Limited (ACN 167 859 494),
  - (b) Sunset Power International Pty Ltd (ACN 162 696 335).
- (2) For the Act, Schedule 4A, clause 90(2)(b), the following are liable acquisitions—
  - (a) the supply of electricity by AGL Macquarie Pty Limited (ACN 167 859 494) to Tomago Aluminium Company Pty Ltd (ACN 001 862 228),

- (b) the supply of electricity by Sunset Power International Pty Ltd (ACN 162 696 335) under an electricity supply arrangement to—
  - (i) BlueScope Steel (AIS) Pty Ltd (ACN 000 019 625), or
  - (ii) BHP Billiton Limited (ACN 004 028 077).

**[56] Clause 62 Scheme penalty rates**

Omit clause 62(1)(b) including the example. Insert instead—

- (b) for each subsequent compliance period—the amount calculated as follows—

$$\text{scheme penalty rate} = \$2.35 \times \frac{\text{CPI}_{\text{current year}}}{\text{CPI}_{\text{Jun 22}}}$$

where—

*CPI<sub>current year</sub>* means the consumer price index for the June quarter immediately before the beginning of the compliance period.

*CPI<sub>Jun 22</sub>* means the consumer price index for the June quarter 2022.

**[57] Clauses 62A–62ZJ**

Insert after clause 62—

**Division 2 Assessment of compliance of scheme participants**

**62A Definition of “assessment”**

In this Division—

*assessment*, of a scheme participant, means an assessment of the following—

- (a) the participant’s individual liable demand for a compliance period,
- (b) the participant’s individual certificate target for a compliance period,
- (c) the participant’s liability for a shortfall penalty for a compliance period, including liability for a shortfall penalty for a carried forward shortfall.

**62B Notification of individual liable demand**

A calculation of a scheme participant’s individual liable demand is taken to have been notified to the Scheme Regulator on—

- (a) 30 September in the year the compliance period ends, or
- (b) the day on which the participant gives the Scheme Regulator the notice required by the Act, Schedule 4A, clause 89(4).

**62C Self-assessment provided in annual statement**

- (1) An assessment provided by a scheme participant in an annual statement is taken to have been made on the last of the following days—
  - (a) 15 December in the year the compliance period ends, or
  - (b) the day on which the annual statement is lodged.
- (2) The liability of a scheme participant for a shortfall penalty for a compliance period is the assessment of the liability provided by the participant in the annual statement for the compliance period, unless another assessment is or has been made by the Scheme Regulator.

**62D Default calculation of individual liable demand**

- (1) In calculating a scheme participant's individual liable demand for the Act, Schedule 4A, clause 89(5), the Scheme Regulator must apply the formula in the Act, Schedule 4A, clause 89(1).
- (2) In determining a scheme participant's liable acquisitions for the purpose of the formula, the Scheme Regulator—
  - (a) may base the assessment on the Scheme Regulator's best estimate of the scheme participant's liable acquisitions, verified by the Market Operator where possible, and
  - (b) may take into account any other matters the Scheme Regulator considers appropriate.
- (3) As soon as practicable after the calculation is made, the Scheme Regulator must give written notice of the calculation to the scheme participant.
- (4) The calculation is taken to have been made on—
  - (a) 30 September in the year the relevant compliance period ends, or
  - (b) a later date specified by the Scheme Regulator in the notice of assessment given to the scheme participant.

**62E Default assessments where annual statement not lodged**

- (1) The Scheme Regulator may make an assessment for a compliance period if a scheme participant fails to lodge an annual statement for the compliance period in accordance with the Act.
- (2) In making an assessment the Scheme Regulator must—
  - (a) for an assessment of a participant's individual certificate target—apply the formula in the Act, Schedule 4A, clause 92, and
  - (b) for an assessment of the participant's liability for a shortfall penalty for a compliance period—calculate the shortfall penalty in accordance with the Act, Schedule 4A, clause 98(2).
- (3) As soon as practicable after the assessment is made the Scheme Regulator must give written notice of the assessment to the scheme participant.
- (4) The assessment is taken to have been made on—
  - (a) 15 December in the year the compliance period ends, or
  - (b) a later date specified by the Scheme Regulator in the notice of assessment given to the scheme participant.

**62F Amendment of assessments generally**

- (1) The Scheme Regulator may, at any time, amend an assessment by making the alterations or additions the Scheme Regulator thinks necessary to correct the assessment.
- (2) The Scheme Regulator may amend an assessment for a compliance period whether or not the scheme participant has paid a shortfall penalty for the period.
- (3) As soon as practicable after an assessment is amended, the Scheme Regulator must give written notice of the amended assessment to the scheme participant.
- (4) The Scheme Regulator may revoke the cancellation of, and revive, a certificate surrendered in connection with an unamended assessment if, in the Scheme

Regulator's opinion, the scheme participant surrendered a greater number of certificates in connection with the assessment than was required to—

- (a) meet the participant's individual certificate target, or
  - (b) remedy a carried forward shortfall.
- (5) When reviving surrendered certificates, the Scheme Regulator must revive the number of certificates the Scheme Regulator is satisfied are surplus to the number required to be surrendered in connection with the amended assessment.
  - (6) When selecting certificates to be revived, the Scheme Regulator must revive the certificates with the longest remaining period before expiry under the Act, Schedule 4A, clause 119.
  - (7) If there are insufficient certificates able to be revived under subclause (6), the Scheme Regulator may revive expired certificates, but only for 12 months.
  - (8) An assessment may be amended under this clause no later than 12 months after the date on which the assessment is taken to have been made under this Division.
  - (9) Subclause (8) does not apply to—
    - (a) an amendment the Scheme Regulator is satisfied is required due to fraud or the provision of false or misleading information by a scheme participant, or
    - (b) an amendment applied for by the scheme participant.

#### **62G Application for amended assessment**

- (1) A scheme participant may apply to the Scheme Regulator for the amendment of an assessment relating to the participant.
- (2) An application may be made no later than 12 months after the day on which the assessment is taken to have been made under this Division.
- (3) An application must be in the form approved by the Scheme Regulator and state the grounds on which the amendment is sought.
- (4) A scheme participant may, in an application under this clause, elect to surrender additional certificates for the purposes of the amended assessment.
- (5) An election must contain details of the certificates proposed to be surrendered.
- (6) The Scheme Regulator may deal with an election as if the election had accompanied the annual statement to which the assessment relates.

#### **62H Changes to liability for shortfall penalty as result of amended assessment**

- (1) A shortfall penalty payable due to the amendment of an assessment is taken to be payable on the later of the following dates—
  - (a) the date 7 days after the date the Scheme Regulator gives the scheme participant notice of the amended assessment,
  - (b) the date on which a shortfall penalty would have been payable under the original assessment.
- (2) The Scheme Regulator may extend the period for payment of a shortfall penalty that becomes payable as a result of the amendment of an assessment.
- (3) A scheme participant whose liability for a shortfall penalty is reduced as a result of an amended assessment is entitled to a refund of an excess shortfall penalty paid under the previous assessment.

- (4) If an assessment has been amended, the Scheme Regulator may, within 12 months after the day on which a shortfall penalty became payable under the amended assessment, further amend the assessment if satisfied the further amendment is necessary to make a just reduction in the scheme participant's liability under the assessment.

**62I Effect on appeals**

Nothing in this Division prevents the amendment of an assessment to give effect to a decision on a review or appeal under the Act.

**Division 3 Accreditation of certificate providers**

**62J Eligibility for accreditation**

- (1) A person is eligible for accreditation as a certificate provider for an activity if—
- (a) the activity is recognised under the scheme rules, and
  - (b) the Scheme Administrator—
    - (i) approved the person's record keeping arrangements, or
    - (ii) for a proposed activity—is satisfied the person will, when the activity is carried out, have appropriate record keeping arrangements, and
  - (c) the Scheme Administrator is satisfied the activity will be undertaken substantially as described in the person's application for accreditation.
- (2) A reference in this Division to an activity includes a reference to an existing or proposed activity.

**62K Application for accreditation**

An application for accreditation as a certificate provider for an activity must—

- (a) be made in the way approved by the Scheme Administrator, and
- (b) be accompanied by the information relating to the activity the Scheme Administrator requires, and
- (c) be accompanied by the fee set out in Schedule 3.

**Note—** The Act, Schedule 4A, clause 111(4) allows the Scheme Administrator to charge a fee for investigating and determining an application for accreditation, in addition to the application fee.

**62L Undertakings**

- (1) The Scheme Administrator may require an applicant to give an undertaking to not claim a benefit under a corresponding scheme if claiming the benefit would result in a benefit being obtained under more than 1 scheme for the same demand reduction.
- (2) The Scheme Administrator may require an applicant to give an undertaking that, if the applicant is granted accreditation subject to an audit condition, the applicant will withhold from transfer a proportion of the certificates created by the applicant pending the result of the audit.
- (3) The Scheme Administrator may require an accredited certificate provider who is subject to an audit condition to give an undertaking to withhold from transfer a proportion of the certificates created by the provider pending the result of the audit.

- (4) The Scheme Administrator must not require a person to give an undertaking to withhold from transfer more than 20% of the certificates created by the person.
- (5) An undertaking must be given in the form required by the Scheme Administrator.
- (6) In this clause—  
**applicant** means a person who applies for accreditation as a certificate provider.  
**audit condition** means a condition requiring an audit under clause 62ZC of the creation of certificates.

#### **62M Grounds for refusal of application for accreditation**

- (1) The Scheme Administrator may refuse an application for accreditation as a certificate provider for an activity if—
  - (a) the Scheme Administrator is not satisfied the applicant is eligible for accreditation as a certificate provider for the activity, or
  - (b) the application for accreditation is not properly made, or
  - (c) the applicant fails to give the Scheme Administrator an undertaking required to be given under clause 62L, or
  - (d) the Scheme Administrator is not satisfied the applicant is competent to be a certificate provider for the activity, or
  - (e) the Scheme Administrator is satisfied the applicant is not a fit and proper person.
- (2) If the Scheme Administrator refuses an application for accreditation as a certificate provider, the Scheme Administrator must give the applicant written notice of the grounds for refusal.
- (3) An individual may not be a fit and proper person if the individual—
  - (a) has, in the previous 10 years, been found guilty of an offence involving fraud or dishonesty, whether in New South Wales or elsewhere, or
  - (b) has been found guilty of an offence under the Act or this Regulation.
- (4) A corporation may not be a fit and proper person if a person who is a director of the corporation or otherwise involved in the management of the corporation is not a fit and proper person under this clause.
- (5) Subclauses (3) and (4) do not limit the grounds on which the Scheme Administrator may be satisfied an applicant is not a fit and proper person.

#### **62N Suspension or cancellation of accreditation**

- (1) The Scheme Administrator may suspend or cancel the accreditation of a person as a certificate provider for an activity on 1 or more of the following grounds—
  - (a) the Scheme Administrator is satisfied—
    - (i) the person has ceased to be eligible for accreditation as a certificate provider for the activity, or
    - (ii) the person, or a close associate of the person, has contravened a provision of the Act, the regulations, the scheme rules or a condition to which the accreditation is subject,
  - (b) the person has requested the suspension or cancellation,



- (c) the person is an individual who has—
    - (i) become bankrupt, or
    - (ii) applied to take the benefit of a law for the relief of bankrupt or insolvent debtors, or
    - (iii) compounded with the person's creditors or made an assignment of remuneration for the benefit of the person's creditors,
  - (d) the person is a corporation the subject of a winding up order or for which an insolvency official has been appointed,
  - (e) the Scheme Administrator is not satisfied the person is competent to be a certificate provider for the activity,
  - (f) the Scheme Administrator is satisfied the person is not a fit and proper person.
- (2) If the Scheme Administrator suspends or cancels the accreditation of a person, the Scheme Administrator must give the person written notice of the suspension or cancellation with reasons.
- (3) A suspension or cancellation takes effect—
- (a) when notice of the suspension or cancellation is given to the person, or
  - (b) on a later date specified by the Scheme Administrator in the notice.
- (4) An individual may not be a fit and proper person if the individual—
- (a) has, in the previous 10 years, been found guilty of an offence involving fraud or dishonesty, whether in New South Wales or elsewhere, or
  - (b) has been found guilty of an offence under the Act or this Regulation.
- (5) A corporation may not be a fit and proper person if a person who is a director of the corporation or otherwise involved in the management of the corporation is not a fit and proper person under this clause.
- (6) Subclauses (4) and (5) do not limit the grounds on which the Scheme Administrator may be satisfied an applicant is not a fit and proper person.

#### **62O Transfer of accreditation**

An application for transfer of accreditation as a certificate provider must be—

- (a) made in the way required by the Scheme Administrator, and
- (b) accompanied by the information relating to the activity required by the Scheme Administrator, and
- (c) accompanied by the fee set out in Schedule 3.

#### **62P Application to amend accreditation**

- (1) An accredited certificate provider may apply to the Scheme Administrator to amend the activities for which the provider is accredited.
- (2) An application must be—
- (a) made in the way approved by the Scheme Administrator, and
  - (b) accompanied by information required by the Scheme Administrator.

**Note—** The Act, Schedule 4A, clause 115(6) allows the Scheme Administrator to charge a fee for investigating and determining an application to amend a provider's accreditation.

## **Division 4 Prescribed conditions of accreditation**

### **62Q Conditions of accreditation**

For the Act, Schedule 4A, clause 114(1)(a), it is a condition of the accreditation of a person as a certificate provider that the person must not contravene a provision of this Division.

### **62R Contravention of undertaking**

An accredited certificate provider must not contravene an undertaking, given to the Scheme Administrator under clause 62L, in connection with the person's accreditation or application for accreditation.

### **62S Record keeping**

- (1) An accredited certificate provider must keep the following records—
  - (a) a record of—
    - (i) the location in which the activity occurred, and
    - (ii) the peak demand reduction capacity, calculated in accordance with the scheme rules, arising from the activity, and
    - (iii) the methodology, data and assumptions used to calculate the peak demand reduction capacity,
  - (b) other records the Scheme Administrator, by written notice, requires the accredited certificate provider to keep.
- (2) A record must be kept—
  - (a) for at least 6 years after the record is made, and
  - (b) in a way approved by the Scheme Administrator.

### **62T Co-operation with audits**

- (1) An accredited certificate provider must provide the information and assistance required for an audit conducted under Division 7.
- (2) Without limiting subclause (1), an accredited certificate provider must give a person conducting an audit access to the provider's premises that the person reasonably requires for the purpose of the audit.

## **Division 5 Imposition of conditions by Scheme Administrator**

### **62U Imposition of conditions by Scheme Administrator**

- (1) If the Scheme Administrator intends to impose a condition on the accreditation of a person as a certificate provider under the Act, Schedule 4A, clause 114(1)(b), either at the time of accreditation or during the period in which the accreditation remains in force, the Scheme Administrator must give the person written notice of the condition.
- (2) The condition takes effect on the date on which the notice is given to the person or a later date specified in the notice.
- (3) The Scheme Administrator may, at any time, by written notice given to a person, revoke or vary a condition imposed on the accreditation of the person by the Scheme Administrator.
- (4) If the Scheme Administrator imposes a condition on, or varies a condition of, the accreditation of a person, the Scheme Administrator must give the person written notice of the reasons for the decision to impose or vary the condition.

#### **62V Financial assurances**

- (1) This clause applies if the Scheme Administrator imposes a condition on the accreditation of a person as a certificate provider requiring the person to provide financial assurance to the Scheme Administrator to secure or guarantee the person's compliance with an order that may be made against the person under the Act, Schedule 4A, clause 117.
- (2) The amount of financial assurance required by the Scheme Administrator must be determined having regard to the following—
  - (a) the activities for which the person is accredited or is to be accredited,
  - (b) the number of certificates the person has created or is likely to create,
  - (c) the frequency of audits conducted or to be conducted of the person's activities,
  - (d) other matters the Scheme Administrator considers relevant.
- (3) Financial assurance must be in the form the Scheme Administrator considers appropriate, for example a bank guarantee or bond.
- (4) A claim may be made on the financial assurance provided by a scheme participant only if—
  - (a) an order is made against the person under the Act, Schedule 4A, clause 117, and
  - (b) the person who gave the assurance fails to comply with the order.
- (5) The Scheme Administrator must give to the person who provided financial assurance written notice of an intention to make a claim at least 21 days before making the claim.
- (6) The maximum amount the Scheme Administrator may claim is calculated by multiplying the number of certificates the person failed to surrender in compliance with the order by the scheme penalty rate for the compliance period in which the claim is made.

#### **62W Application to vary or revoke conditions of accreditation**

- (1) An accredited certificate provider may apply to the Scheme Administrator to vary or revoke a condition of the provider's accreditation.
- (2) An application must be—
  - (a) made in the way approved by the Scheme Administrator, and
  - (b) accompanied by the information the Scheme Administrator requires.

**Note—** The Act, Schedule 4A, clause 115(6) allows the Scheme Administrator to charge a fee for investigating and determining an application to amend a provider's accreditation.

### **Division 6 Certificates**

#### **62X Registration of creation of certificates**

- (1) An application for registration of the creation of a certificate must be made to the Scheme Administrator in the way approved by the Scheme Administrator.
- (2) For each certificate created, the application must be accompanied by the fee set out in Schedule 3.
- (3) The Scheme Administrator may refuse an application for registration of the creation of a certificate on 1 or more of the following grounds—

- (a) the applicant is not an accredited certificate provider or the accreditation of the person as a certificate provider is suspended at the time of application,
  - (b) the application for registration was not properly made,
  - (c) the Scheme Administrator is not satisfied the applicant was entitled to create the certificate,
  - (d) the Scheme Administrator is satisfied the accredited certificate provider who created the certificate has contravened a provision of the Act, this Regulation, the scheme rules or the conditions of the accredited certificate provider's accreditation.
- (4) If the Scheme Administrator refuses an application for registration of the creation of a certificate, the Scheme Administrator must give the applicant written notice of the refusal and the reasons for the refusal.

**62Y Form of certificates**

- (1) Certificates must be created in a form approved by the Scheme Administrator.
- (2) Each certificate must include the following—
  - (a) the name of the person who created the certificate,
  - (b) a statement of the activity for which the certificate is created, including the information the Scheme Administrator by written notice requires the accredited certificate provider to include in the certificate,
  - (c) the compliance period in which the activity occurred,
  - (d) the compliance period in which the capacity to reduce demand will be made available,
  - (e) for a certificate relating to an activity that occurred in a State or Territory for which there is an approved corresponding scheme under the Act, Schedule 4A, clause 107—the State or Territory in which the activity occurred,
  - (f) the certificate expiry date.

**62Z Order requiring surrender of certificates**

- (1) This clause applies if an order is made or proposed to be made under the Act, Schedule 4A, clause 117 against a person who the Scheme Administrator is satisfied is guilty of an offence under the Act, Schedule 4A, clause 114(2), being an offence arising from a contravention of a condition referred to in clause 62R.
- (2) For the Act, Schedule 4A, clause 117, the number of certificates to be surrendered under the order is—
  - (a) if the contravention relates to an undertaking under clause 62L(1)—the number equivalent to the number of certificates for which, in the Scheme Administrator's opinion, a benefit was obtained under a corresponding scheme, and
  - (b) if the contravention relates to an undertaking under clause 62L(2) or (3)—the number equivalent to the number of certificates the Scheme Administrator is satisfied were not withheld from transfer in accordance with the undertaking.

**62ZA Registration of transfer of certificates**

- (1) An application for registration of the transfer of a certificate must be made to the Scheme Administrator in the way approved by the Scheme Administrator.
- (2) The Scheme Administrator may refuse an application for registration of the transfer of a certificate if satisfied—
  - (a) the application for registration is not properly made, or
  - (b) the proposed transfer contravenes the Act, this Regulation or the scheme rules.
- (3) If the Scheme Administrator refuses an application for registration of the transfer of a certificate, the Scheme Administrator must give the applicant written notice of the reasons for the refusal.

**Division 7 Audits**

**62ZB Audit of scheme participant**

- (1) The Scheme Regulator may, at any time, conduct an audit, or require an audit be conducted, of a scheme participant's compliance with the peak demand reduction scheme.
- (2) An audit may be conducted—
  - (a) to substantiate information provided to the Scheme Regulator, or
  - (b) to determine whether the scheme participant has complied with the Act, this Regulation or the scheme rules.
- (3) For an audit required by the Scheme Regulator, the Scheme Regulator may require the audit to be conducted by a person—
  - (a) nominated by the Scheme Regulator, or
  - (b) chosen by the scheme participant from a panel of persons nominated by the Scheme Regulator, or
  - (c) nominated by the scheme participant and approved by the Scheme Regulator.
- (4) An audit must be conducted in accordance with the directions of the Scheme Regulator.

**62ZC Audit of accredited certificate provider**

- (1) The Scheme Administrator may, at any time, conduct an audit, or require an audit be conducted, of an accredited certificate provider in relation to the following matters—
  - (a) the creation of certificates,
  - (b) eligibility for accreditation,
  - (c) compliance with a condition of accreditation.
- (2) An audit may be conducted—
  - (a) to substantiate information provided to the Scheme Administrator, or
  - (b) to determine whether the provider has complied with the Act, this Regulation, the scheme rules or the conditions of the provider's accreditation.
- (3) For an audit required by the Scheme Administrator, the Scheme Administrator may require the audit to be conducted by a person—

- (a) nominated by the Scheme Administrator, or
  - (b) chosen by the accredited certificate provider from a panel of persons nominated by the Scheme Administrator, or
  - (c) nominated by the accredited certificate provider and approved by the Scheme Administrator.
- (4) An audit must be conducted in accordance with the directions of the Scheme Administrator.

**62ZD Impersonating an auditor**

A person must not impersonate an approved auditor.

Maximum penalty—

- (a) for a corporation—250 penalty units, or
- (b) for an individual—100 penalty units.

**Division 8 Registers**

**62ZE Register of accredited certificate providers**

- (1) The register of accredited certificate providers must include the following information about each accredited certificate provider, in addition to the information specified in the Act, Schedule 4A, clause 134—
- (a) the activity or activities for which the accredited certificate provider is accredited,
  - (b) the total number of certificates created by the accredited certificate provider for each activity and registered in the register of certificates in the previous compliance period,
  - (c) the States or Territories in which the activities took place.
- (2) The register of accredited certificate providers must include the following information about a person whose accreditation as a certificate provider is suspended or cancelled—
- (a) the name of the person,
  - (b) the reasons the accreditation was suspended or cancelled,
  - (c) the date on which the accreditation was suspended or cancelled,
  - (d) for a suspension—the period of the suspension.

**62ZF Register of persons refused accreditation**

For the Act, Schedule 4A, clause 134A, the register of persons refused accreditation as accredited certificate providers must include the following information about each person refused accreditation—

- (a) the date the person's application for accreditation was made,
- (b) the date the person's application for accreditation was refused,
- (c) the activities for which the person applied for accreditation.

**Division 9 Miscellaneous**

**62ZG Conditions under which peak demand reduction targets may be changed**

- (1) For the Act, Schedule 4A, clauses 84(4)(c) and 99(3)(c)—
- (a) the evidence of an under supply of certificates must comprise evidence that, for each of 2 or more consecutive compliance periods, the scheme

certificate target for the compliance period exceeded the number of certificates available to meet the target by 10% or more, and

- (b) the evidence of an oversupply of certificates must comprise evidence that for a compliance period the number of certificates available to meet the scheme certificate target exceeded the target by 20% or more.
- (2) A certificate created under an approved corresponding scheme that is unable to be surrendered by a scheme participant for the purposes of meeting the individual certificate target or remedying a carried forward shortfall must be disregarded.

#### **62ZH Decisions reviewable by Civil and Administrative Tribunal**

For the Act, Schedule 4A, clause 139(2)(d), the following decisions of the Scheme Administrator are prescribed—

- (a) a decision to impose or vary a condition of the accreditation of a certificate provider,
- (b) a decision to refuse to vary the activities for which an accredited certificate provider is accredited,
- (c) a decision to make a claim on financial assurance provided by an accredited certificate provider.

**Note—** This clause allows the decisions referred to above to be reviewed by the Civil and Administrative Tribunal.

#### **62ZI Relevant agencies**

For the Act, Schedule 4A, clause 136A(3), definition of *relevant agency*, paragraph (b), the following bodies are prescribed—

- (a) the person appointed as the administrator under the *Energy Efficiency (Cost of Living) Improvement Act 2012* of the Australian Capital Territory, section 23,
- (b) the Australian Energy Regulator established by the *Competition and Consumer Act 2010* of the Commonwealth, section 44AE,
- (c) the Australian Transaction Reports and Analysis Centre established by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth, section 209,
- (d) the Clean Energy Regulator established by the *Clean Energy Regulator Act 2011* of the Commonwealth, section 11,
- (e) the Essential Services Commission established by the *Essential Services Commission Act 2002* of South Australia, section 4(1),
- (f) the Essential Services Commission established by the *Essential Services Commission Act 2001* of Victoria, section 7(1),
- (g) AEMO,
- (h) the Australian Federal Police,
- (i) the NSW Police Force.

#### **62ZJ Annual report by Scheme Regulator**

For the Act, Schedule 4A, clause 142(1A)(a), the prescribed date is 31 July in the subsequent year.

#### **[58] Clause 69 Service of documents**

Omit clause 69(c). Insert instead—

- (c) sent to the person by email to an email address provided by the person,  
or
- (d) by other electronic means.

**[59] Clause 70A Penalty notice offences and penalties**

Omit “section 187 of the Act” from clause 70A(1).

Insert Instead “the Act, section 187 and Schedule 4A clause 71C and 136D”.

**[60] Clause 70A(1)(b)**

Omit the paragraph. Insert instead

- (b) the penalty prescribed for each offence is the amount specified opposite the provision in—
  - (i) for an individual—Column 2 of the Schedule, or
  - (ii) for a corporation—Column 3 of the Schedule.

**[61] Clause 70B**

Insert after clause 70A—

**70B Civil penalty orders**

For the Act, Schedule 4A, clauses 63A and 132A, definitions of *civil penalty provision*, each provision specified in Schedule 5 is a civil penalty provision for which a civil penalty order may be issued.

**[62] Schedule 2 Saved aspects of greenhouse gas abatement certificate scheme for carbon sequestration activities**

Omit “form and manner” from Schedule 2, clause 4(4). Insert instead “way”.

**[63] Schedule 3**

Omit the Schedule. Insert instead—

**Schedule 3 Fees**

clauses 39, 43, 51, 62K, 62O and 62X

**1 Fees**

The following fees are payable under the Act and this Regulation—

Column 1	Column 2	Column 3
Provision	Matter for which fee payable	Fee
<b>Energy savings scheme</b>		
The Act, Schedule 4A, clause 39(4) and this Regulation clause 39(c)	Application for accreditation as energy savings certificate provider	\$2,500
The Act, Schedule 4A, clause 43(4) and this Regulation clause 43(c)	Application for transfer of accreditation as energy savings certificate provider	\$500
The Act, Schedule 4A, clause 46(6) and this Regulation clause 51(2)	Application for registration of the creation of an energy savings certificate	\$0.80, adjusted annually as set out in clause 2, for each certificate



Column 1	Column 2	Column 3
Provision	Matter for which fee payable	Fee
<b>Peak demand reduction scheme</b>		
The Act, Schedule 4A, clause 111(4) and this Regulation clause 62K(c)	Application for accreditation as a certificate provider	\$2,500
The Act, Schedule 4A, clause 116(4) and this Regulation clause 62O(c)	Application for transfer of accreditation as a certificate provider	\$500
The Act, Schedule 4A, clause 118(10) and this Regulation clause 62X(2)	Application for registration of the creation of a certificate	\$0.0279, adjusted annually as set out in clause 3, for each certificate

## 2 Adjustment of fee for registration of energy savings certificate

(1) Under the Act, Schedule 4A, clause 46(6), the fee for an application for registration of the creation of an energy savings certificate must be adjusted on 1 January of each year as follows—

(a) for calendar years 2017–2022 using the following formula—

$$Fee_{year} = Fee_{year-1} \times \frac{CPI_{year-1}}{CPI_{year-2}}$$

where—

*Fee<sub>year</sub>* is the fee for each certificate for the year concerned.

*Fee<sub>year-1</sub>* is the fee for each certificate for the immediately preceding year.

*CPI<sub>year-1</sub>* is the Consumer Price Index for the September quarter of the immediately preceding year.

*CPI<sub>year-2</sub>* is the Consumer Price Index for the September quarter of the year before the immediately preceding year.

(b) for calendar years after 2022 using the following formula—

$$Fee_{year} = 0.92 \times \frac{CPI_{year-1}}{CPI_{Sep\ 21}}$$

where—

*Fee<sub>year</sub>* is the registration fee for the year concerned.

*CPI<sub>year-1</sub>* is the Consumer Price Index for the September quarter of the immediately preceding year.

*CPI<sub>Sep 21</sub>* is the Consumer Price Index for the September quarter 2021.

(2) A fee must be rounded up to the nearest cent.

## 3 Adjustment of fee for registration of peak demand reduction certificate

(1) Under the Act, Schedule 4A, clause 118(10), the fee for an application for registration of the creation of a certificate must be adjusted on 1 November of each year using the following formula—

$$Fee_{current\ period} = \$0.0279 \times \frac{CPI_{current\ year}}{CPI_{Jun\ 22}}$$

where—

*Fee<sub>current period</sub>* is the registration fee for the compliance period concerned.

*CPI<sub>current year</sub>* is the Consumer Price Index for the June quarter immediately preceding the start of the relevant compliance period.

$CPI_{Jun\ 22}$  is the Consumer Price Index for the June quarter 2022.

(2) A fee must be rounded up to the nearest one hundredth of a cent.

**[64] Schedule 4**

Omit the Schedule. Insert instead—

**Schedule 4 Penalty notice offences**

clause 70A

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty—individual</b>	<b>Penalty—corporation</b>
<b>Offences under the Act</b>		
<b>Energy savings scheme</b>		
Schedule 4A, clause 26(6)	\$1,100	\$2,750
Schedule 4A, clause 36(1)	\$22,000	\$22,000
Schedule 4A, clause 41(3)	\$22,000	\$22,000
Schedule 4A, clause 45(5)—		
(a) base amount, and	\$11,000	\$11,000
(b) for each energy savings certificate the person fails to surrender	\$110	\$110
Schedule 4A, clause 60	\$1,100	\$2,750
Schedule 4A, clause 71	\$1,100	\$2,750
Schedule 4A, clause 71B(5)	\$550	\$2,200
<b>Peak demand reduction scheme</b>		
Schedule 4A, clause 103(6)	\$1,100	\$2,750
Schedule 4A, clause 108(1)	\$22,000	\$22,000
Schedule 4A, clause 114(2)	\$22,000	\$22,000
Schedule 4A, clause 117(4)—		
(a) base amount, and	\$11,000	\$11,000
(b) for each certificate the person fails to surrender	\$110	\$110
Schedule 4A, clause 129	\$1,100	\$2,750
Schedule 4A, clause 136C(5)	\$1,100	\$2,200
Schedule 4A, clause 137(9)	\$1,100	\$2,750
<b>Offences under this Regulation</b>		
Clause 10B(2)	\$5,500	\$11,000
Clause 10B(4)	\$5,500	\$11,000
Clause 10B(5)	\$100	\$100
Clause 10C(2) and (3)	\$5,500	\$11,000
Clause 10E	\$5,500	\$11,000

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty—individual</b>	<b>Penalty—corporation</b>
Clause 10F	\$100	\$100
Clause 10G	\$5,500	\$11,000

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**[65] Schedule 5**

Insert after Schedule 4—

## **Schedule 5 Civil penalty orders**

clause 70B

### **Provision**

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#### **Energy savings scheme**

The Act, Schedule 4A, clause 26(6)

The Act, Schedule 4A, clause 36(1)

The Act, Schedule 4A, clause 41(3)

The Act, Schedule 4A, clause 45(5)

The Act, Schedule 4A, clause 60

The Act, Schedule 4A, clause 71

The Act, Schedule 4A, clause 71B(5)

#### **Peak demand reduction scheme**

The Act, Schedule 4A, clause 103(6)

The Act, Schedule 4A, clause 108(1)

The Act, Schedule 4A, clause 114(2)

The Act, Schedule 4A, clause 117(4)

The Act, Schedule 4A, clause 129

The Act, Schedule 4A, clause 136C(5)

The Act, Schedule 4A, clause 137(9)

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