Australian Government

Office of the Renewable Energy Regulator

INCREASING AUSTRALIA'S RENEWABLE ELECTRICITY GENERATION ANNUAL REPORT 2010

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About this Report

ORER's Annual Report 2010 has been prepared in accordance with the requirements of section 105 *Renewable Energy (Electricity) Act 2000.*

It is available in print from 36 libraries around Australia and the ORER Office. It is also available online at www.orer.gov.au/publications/index.html#annual-reports

Contact us

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Australian Government

Office of the Renewable Energy Regulator

The Hon Greg Combet AM, MP

Minister for Climate Change and Energy Efficiency

Dear Minister

I am pleased to present to you the tenth Annual Report of the Office of the Renewable Energy Regulator.

This 2010 Annual Report focuses on the working of the *Renewable Energy (Electricity) Act 2000* for the calendar year.

The report is submitted for presentation to the Parliament in accordance with section 105 of the *Renewable Energy (Electricity) Act 2000*.

Yours sincerely

Andrew Livingston

Renewable Energy Regulator

June 2011

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WELCOME FROM THE REGULATOR

In the 2010 year ORER focused on improving existing processes and updating systems and processes to address the significant amendments made to the *Renewable Energy (Electricity) Act 2000.*

The *Renewable Energy (Electricity) Amendment Bill 2010* was passed by Parliament on 24 June 2010 and received Royal Assent on 28 June 2010.

The bill included provisions to split the Renewable Energy Target (RET) into two parts – the Large-scale Renewable Energy Target (LRET) and the Small-scale Renewable Energy Scheme (SRES) from 1 January 2011. The aim of the split is to ensure that both large-scale and small-scale renewable energy systems are supported. In particular, the separation of the target encourages investment certainty for large-scale generators.

The amendments also introduced the STC Clearing House which facilitates the exchange of small-scale technology certificates (STCs) between buyers and sellers at a fixed price. The STC Clearing House has been accessible via the REC Registry from early January 2011. ORER also developed an online registration system, including proof of identity verification, to ensure users of the STC Clearing House complete relevant legislated checks. The online registration system has also been accessible from early January 2011.

The amendments included the transitional arrangements for eligible contract holders to apply to the Regulator for an Annual Transfer Number to convert small-scale technology certificates (STCs) to large-scale generation certificates (LGCs). The Regulator received 13 applications to apply for an Annual Transfer Number by 31 December 2010.

Preparation for implementation included a series of workshops for agents, installers and liable entities who were most affected by the changes. ORER also completed a series of upgrades to the REC Registry, including the implementation of the STC Clearing House.

The amendments to the legislation called for an adjustment to the LRET targets if the number of registered Renewable Energy Certificates (RECs) exceeded 34.5 million at the end of the 2010 calendar year.

At the end of 2010, the REC Registry showed that the number of registered RECs was 42,576,189 exceeding 34.5 million RECs by 8.076 million RECs.

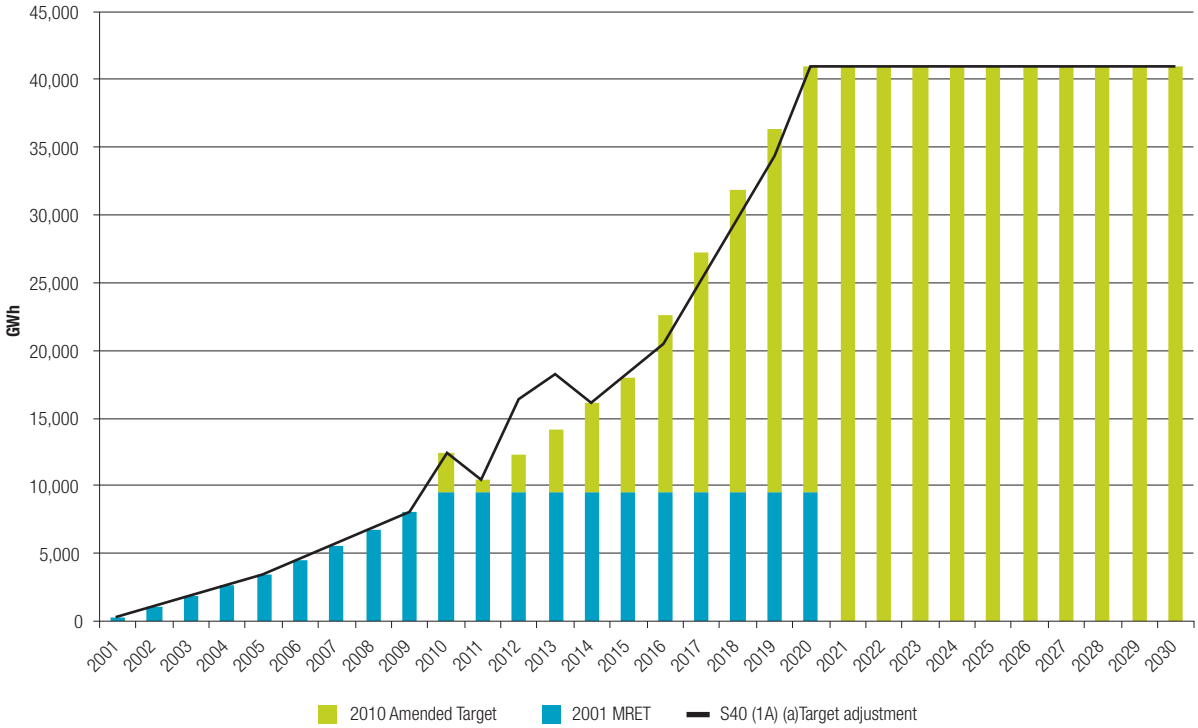
The 2011 LRET target will remain unchanged at 10,400 GWh. The new LRET targets are:

- 2012 – 16,338 GWh
- 2013 – 18,238 GWh
- 2016 – 20,581 GWh
- 2017 – 25,181 GWh
- 2018 – 29,781 GWh
- 2019 – 34,381 GWh

The Act includes provisions to provide partial exemption from LRET and SRES liability for electricity used in defined emissions-intensive trade-exposed (EITE) activities from 2010 onwards. Under the Act prescribed persons (typically entities that carry on EITE activities) may apply for partial exemption certificates (PECs).

For the 2010 compliance year the Regulator received 106 PEC applications by the 1 December 2010 deadline. Applications spanned all 29 eligible EITE activities.

Legislated Annual Renewable Energy Targets



As at 31 December 2010, 15 PECs were issued totalling 2,651 gigawatt-hours (GWh) of partial exemption under the legislation. The amount of partial exemption estimate used to set the 2010 Renewable Power Percentage was 7,700 GWh.

The 2010 year was significant in terms of tightening compliance measures under the Act. The changes to the Act in June 2010 included new enforcement remedies available to the Regulator including civil penalty orders, enforceable undertakings and injunctions. ORER has conducted two enforceable undertakings and ORER's compliance team are actively investigating incidences of non-compliance with more than 400 site visits, nine warrants, one agent suspension and 35 compliance visits to discuss compliance issues with companies. The compliance page on the ORER website contains an explanation and examples of contraventions and penalties under the Act to assist participants with their compliance responsibilities.

ORER has also expanded the practice of conducting pre-validation checks on small-scale installations. The aim is to check the systems comply with the Act before the certificates have been passed. Pre-validation checks are conducted by site visits, aerial photography, documentation checks and phone calls to the installation owner. ORER conducted over 5,000 pre-validation checks from June – December 2010. Due to changes to the Regulations those creating certificates for small generation unit installations (SGU) also need to submit additional written statements to demonstrate that the eligibility criteria has been met.

The Regulations passed in December included details for a statistically significant inspection regime for SGU installations to assess their conformance with relevant Australian Standards and other requirements relevant to the creation of certificates for SGU installations. The inspection regime is due to commence in 2011.

ORER continued to see growth in the number of small units installed and registered. In 2010, over 275,000 eligible small units were installed with registered RECs consisting of 164,671 small generation units and 110,960 solar water heaters. These small units created 20,730,333 small generation unit RECs and 3,664,841 solar water heater RECs.

Regulations were also passed in December that included provisions to monitor out-of-pocket costs of small generation unit installations.

The June 2010 amendments excluded air source heat pumps with a volumetric capacity over 425 litres from creating RECs if installed after 29 June 2010 unless they fulfilled contractual requirements. ORER's assessment of existing contracts was undertaken before the eligible RECs were validated.

In December, Regulations were passed to allow the Renewable Energy Regulator to refer a legislative instrument to determine the number of STCs a solar water heater is entitled to. The Regulations also amended particular references to Australian Standards, which require that all solar water heaters must now meet those updated standards in order to become an eligible system for the purpose of the SRES and the creation of certificates.

In 2010, investment in the renewable energy industry increased with new renewable energy power stations and many deemed units accredited under the RET.

ORER accredited 24 more renewable energy power stations bringing the total number of accredited renewable energy power stations to 316. ORER estimates that total investment in large-scale renewable energy power stations stands around $9 billion and the generating capability of the large-scale system is in the order of 12,200 GWh of eligible renewable energy per typical year. This is equivalent to the residential electricity needs of over 1.9 million households.

In 2010, 8 power stations, previously accredited under the Victorian Renewable Energy Target (VRET), were accredited under the RET scheme as part of the VRET to RET transition.

In 2010, RET participants created over 35 million RECs and ORER staff validated, on average, 160,000 RECs each working day. More than 275,000 additional renewable energy participants joined the scheme and the number of RECs created in the 2010 year was approximately 19 million more as compared with 2009.

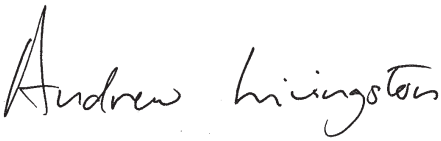
Strong industry support of the RET scheme is evidenced by nearly 100 per cent compliance through RECs by wholesale electricity purchasers (liable entities) for 2010. Several liable entities, who had shortfalls in previous years, made up their shortfalls by surrendering additional RECs in 2010. The renewable power percentage for 2010 was set at 5.98 percent of additional renewable electricity which resulted in a demand of 12.5 million RECs created by liable entities.

In December, the small-scale technology percentage (STP) was set at 14.8% (28 million STCs) and the renewable power percentage was set at 5.62% (10.4 million LGCs) for the 2011 compliance year.

In 2010, ORER implemented a number of software changes to the REC Registry. One major upgrade to the Registry took place in 2010. Version 1.7, released in July 2010, incorporated additional small units compliance requirements into the REC Registry and allowed for the conversion of the Victorian Renewable Energy Target (VRET) certificates in to the national scheme.

Overseas interest in the RET has also been strong which is a testament to the quality of the scheme. In 2010, ORER welcomed visits by delegations from the Philippines, Thailand, Tanzania, Japan and China.

After a very busy year ORER is now looking forward to working with stakeholders on the implementation of the LRET and SRES in 2011 and beyond.



Andrew Livingston

Renewable Energy Regulator

June 2011

CHAPTER 1

ORER AND THE RET SCHEME

The 2010 Annual Report provides details on the administration of the *Renewable Energy (Electricity) Act 2000 (the Act)* during the 2010 calendar year.

RET explained

The Australian Government's Renewable Energy Target (RET) was introduced to encourage additional generation of electricity from renewable energy sources. The RET legislation set the framework for both the supply and demand of RECs via a REC market in 2010.

REC Demand – liable entities

The RET places a legal liability on wholesale purchasers of electricity, defined as liable entities under the Act to proportionately contribute towards the generation of **additional** renewable electricity.

Liable entities support additional renewable energy generation from renewable energy power stations, solar water heaters (SWHs) and small generation units (SGUs) through the purchase of RECs via an internet based registry system, called the REC Registry. The renewable power percentage establishes the rate of liability for each calendar year.

Liable entities are required to annually surrender the number of registered RECs equal to their liability for the previous calendar year. RECs that are marked as 'invalid due to surrender' by ORER are no longer available to reuse during the life of the RET.

REC Supply – eligible parties

Eligible parties transfer RECs in the REC Registry to liable entities for a negotiated price.

Eligible parties include:

- renewable energy sourced power stations such as wind, hydro, landfill gas, solar and bagasse
- owners of SWHs and SGUs
- agents of SWHs and SGUs

Eligible parties can create RECs for eligible electricity generated above the accredited renewable energy power station's baseline or for eligible SWHs and SGUs. RECs that become registered are a tradable commodity in the REC market.

The REC market

The Act allows for RECs to be electronically transferred between REC Registry account holders (typically between eligible parties and liable entities) listed in the REC Registry. REC transfers are reported automatically to the Regulator in the REC Registry under section 28 of the Act. This process is market driven with the price of RECs determined by supply and demand. The transfer of RECs between liable and eligible parties is not a rebate but a financial transaction. The REC price is not regulated by ORER.

Baselines

The main objective of the RET is to encourage additional generation of electricity from renewable energy sources. During the accreditation process of a renewable energy power station the Regulator generally determines the baseline by using the average amount of annual electricity generated from eligible renewable energy sources over the 1994, 1995 and 1996 years. Eligible parties can only create RECs for electricity generated above the baseline.

Power stations which generated electricity for the first time after 1 January 1997 have a baseline of zero.

The RET process

The Act operates on a calendar year (1 January – 31 December). The process for participating in the RET is as follows:

- *apply to become a registry user* – Individuals or companies wishing to become a registry user must create an account in the REC Registry. At this point individuals or companies are only able to own and transfer registered RECs or make mandatory or voluntary REC surrender offers.
- *lodge Registered Person Application with ORER and pay application fee* – If individuals or companies wish to create RECs, a registered person application must be lodged with ORER and a $20 application fee paid.
- *Registered Person Application is approved* when registration is successfully completed, a registered person may:
  - seek accreditation of a renewable energy power station for which they are a nominated person, by applying to the Regulator. If the renewable energy power station is accredited by the Regulator, then RECs can be created for eligible electricity generation above the renewable energy power station's baseline
  - create RECs for their own eligible deemed unit
  - apply for registration as an agent. If successfully registered, an agent can create RECs on behalf of owners of deemed unit installations who assign their right to create RECs to the agent.

Registered RECs

RECs created by registered persons are checked and either validated or failed by ORER. For RECs to be registered they must be validated by ORER and the applicable registered person must pay an 8 cent registration fee per REC.

Registered RECs can be:

- **transferred** between parties who have an account in the REC Registry
- **surrendered** by liable entities to discharge their mandatory liability under the Act. RECs surrendered by liable entities under section 29 of the Act and accepted by ORER are marked 'invalid due to surrender' in the REC Registry
- **voluntary surrendered** under section 28A for any reason. All registered owners of RECs can choose to make voluntary REC surrender offers for any reason.

RECs accepted for surrender are permanently removed from the REC market.

Reporting period

RET participants are required to report their annual activities such as electricity generation, deemed unit REC information, and liable electricity acquisitions for each calendar year, by 14 February of the following year by lodging annual returns or statements.

Legislative framework

The Act came into force on 18 January 2001, after passage through Parliament on 8 December 2000.

Section 3 of the Act sets out three main objectives:

- to encourage the additional generation of electricity from renewable sources
- to reduce emissions of greenhouse gases in the electricity sector
- to ensure that renewable energy sources are ecologically sustainable.

The Act, which established the market for RECs, came into effect on 1 April 2001 and has been amended three times.

- 2006 – to reflect outcomes of the 2004 review followed by amendments.
- 2009 – to support the expansion of the RET.
- 2010 – to split the RET into two parts – the Large-scale Renewable Energy Target (LRET) and the Small-scale Renewable Energy Scheme (SRES).

The *Renewable Energy (Electricity) Amendment Act 2009 and Renewable Energy (Electricity) Amendment Act 2010 (the Amendment Act),* incorporated a number of recommendations that ensured the continuation and expansion of the Renewable Energy Target. Some of the 2010 Amendment Act requirements commenced on royal assent while other requirements commenced on 1 January 2011 to support the Large-scale Renewable Energy Target (LRET) and Small-scale Renewable Energy Scheme (SRES).

Prior to 1 January 2011 the Act was supported by the *Renewable Energy (Electricity) (Charge) Act 2000* (the Charge Act), which sets the Renewable Energy Shortfall charge (RESC), payable where RECs are not surrendered. From 1 January 2011 there are now two Charge Acts that support the *Renewable Energy (Electricity) Act 2000.* Both set the applicable charge payable where certificates are not surrendered.

1. The *Renewable Energy (Electricity) (Large-scale Generation Shortfall Charge) Act 2000*, replaced the name of the Renewable Energy Shortfall Charge (RESC) with Large-scale Generation Shortfall Charge (LGSC) to support the LRET. A 2009 amendment to the Act increased the LGSC to $65 per Large-scale Generation Certificate (LGC) not surrendered to the Regulator for the 2010 to 2030 compliance years. The LGSC remains set at $40 per LGC not surrendered to the Regulator for the 2001 – 2009 compliance years.
2. The *Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Act 2010*, came into force in 2010 and sets the Small-scale Technology Shortfall Charge (STSC) at $65 per Small-scale Technology Certificate (STC) not surrendered to the Regulator for the 2011 to 2030 compliance years.

The Act is also supported by the *Renewable Energy (Electricity) Regulations 2001* (the Regulations), which provide more details on a number of issues, including eligibility criteria for renewable energy sources and criteria for accreditation of power stations and deemed units.

The Regulations were established on 6 February 2001, and have subsequently been amended thirty-four times. Of these, nineteen amendments were conducted by the Office of the Renewable Energy Regulator while fifteen were conducted by the Department of Climate Change and Energy Efficiency (DCCEE). New amendments expected each year support the 2010 Amendment Act and to set future renewable power percentages and small-scale technology percentages.

The Act is also supported by Regulations referred to as transitional provisions so that LRET and SRES participants are not disadvantaged by certain legislative and Regulation amendments. As such there are two transitional provision Regulations. The *Renewable Energy (Electricity) Amendment (Transitional Provisions) Regulations 2010* that was made to support the *2010 Amendment Act* and *Renewable Energy (Electricity) Amendment (Transitional Provisions) Regulations 2009* that was made to support the 2009 Amendment Act.

In combination the Act, the Charge Acts, the Regulations and supporting Regulations set the framework for the implementation of the Australian Government's RET, LRET and SRES.

Administering the Act

ORER was established to administer the Act on 12 February 2001, and became a prescribed agency under the *Financial Management and Accountability Act 1997* from 1 July 2003. Consequently, ORER also publishes a separate financial year annual report, outlining activity over the financial year from 1 July to 30 June each year.

The role of the Regulator and ORER are established under Part 14 of the Act. The key role of ORER is to assist the Regulator in performing the Regulator's functions (section 150 of the Act). The Regulator and ORER constitute a Statutory Agency for the purposes of the Public Service Act 1999.

The first Regulator was appointed on 12 February 2001 by the then Minister for the Environment and Heritage, Senator the Hon Robert Hill. Mr David Rossiter accepted this role, and led ORER for an initial period of 5 years. At the end of this term, the then Minister for the Environment and Heritage, Senator the Hon Ian Campbell, reappointed Mr Rossiter for a further 5 year period. Senator the Hon Penny Wong, Minister for Climate Change and Water appointed Mr Amarjot Singh as the Acting Renewable Energy Regulator on 1 July 2008 and Mr Andrew Livingston as the Renewable Energy Regulator on 1 June 2009.

Role of the Regulator

Maintaining a register of registered persons

Under section 135 of the Act the Regulator must maintain a register of registered persons, accredited power stations, RECs and applications for accredited power stations. These registers are maintained and are accessible through the REC Registry. Under the Act certain information from these registers is required to be made publicly available on the REC Registry.

Registration of registered persons

Individuals and companies must be registered before they can seek accreditation of renewable energy power stations, create RECs above the renewable energy power station's baseline or create RECs for eligible deemed units. Each registered person is allocated a unique registration number, which is accessible from the Register of registered persons.

Accreditation of eligible renewable energy power stations

Renewable energy power stations must apply for accreditation in order to participate in the RET. Nominated persons of accredited renewable energy power stations can be eligible to create RECs in respect of the eligible generation above the baseline.
The accreditation process includes:

- verification that the renewable energy power station meets eligibility criteria as specified in the legislation
- verification that a renewable energy power station is using one or more eligible renewable energy sources
- establishment of an annual baseline. The baseline for renewable energy power stations that started generating electricity after 1 January 1997 is zero and for pre-1997 renewable energy power stations is non-zero
- allocation of a unique accreditation code if the renewable energy power station is accredited.

Registration of renewable energy certificates

RECs must be created by registered persons, pass through a validation test conducted by ORER and have a registration fee of 8 cents per REC registered paid by the registered person.

There are three types of registered persons:

- nominated persons for renewable energy power stations
- individual owners of deemed units
- agents for deemed units.

Registered RECs can be transferred to other persons, voluntarily surrendered under section 28A of the Act or surrendered to discharge a mandatory liability under sections 29, 44 and 95 of the Act. RECs surrendered to discharge a mandatory liability incur an 8 cent fee per REC surrendered.

Monitoring and compliance

All participants of the RET must comply with relevant sections of the Act, Charge Act and Regulations for the creation of RECs, reporting and other requirements.

ORER uses intelligence analysis and risk assessment to make strategic decisions about compliance activities undertaken, with the intent to maximise the number of stakeholders who voluntarily comply with their obligations under the Act.

Monitoring and compliance activities involve:

- assessing and overseeing the submission of annual returns and statements such as:
  - Annual Electricity Generation Returns (EGR). Nominated persons for renewable energy power stations report their renewable electricity generation above the baseline and REC creation in the EGR
  - Annual Solar Water Heater and Small Generation Unit Returns (SWH/SGUR). Agents report REC information with respect to the number of deemed units that were entitled to RECs
  - Annual Energy Acquisition Statements (AEAS) and Renewable Energy Shortfall Statements (RESS). Liable entities are required to lodge an AEAS or RESS and acquit their liability by surrendering RECs and/or paying a Renewable Energy Shortfall Charge (RESC) in accordance with the Act. Liable entities that have a shortfall less than 10 per cent of the total

liability in a given year are not required to pay the RESC and are allowed to carry forward the REC shortfall without paying the RESC. Where applicable ORER imposes any penalties for non-compliance with the provisions of the legislation. The RESC equals $40 per REC not surrendered for the 2001-2009 compliance years and $65 per REC for the 2010 and future compliance years. Where applicable allow liable entities to redeem any RECs, if shortfalls are made up within three years of the shortfall year.

- ensuring the integrity of the measure by undertaking audits of participants including eligible and liable entities
- analysis of information reported by registered persons and corporations
- desktop investigations, including data analysis
- checks against third party data and other innovative analysis techniques
- targeted investigations using authorised officers. This includes but is not limited to site visits, outreach visits, monitoring warrants and compliance visits
- audits of eligible parties and liable entities. Audits include:
  - liability compliance audits – seek to verify the information provided in the AEAS or RESS
  - eligibility compliance audits – seek to verify information provided in the EGR or SWH/SGUR.

Audits not only help liable and eligible parties understand the application of the RET to their circumstances, but also provide feedback to ORER on areas where systems might need some improvement. The field audits confirmed that audited parties were reporting consistently in accordance with the legislation. However, as in previous years, ORER found that some parties appear to lack the internal procedures that would lead to efficient and accurate reporting of relevant acquisitions.

Issuing Partial Exemption Certificates (PECs)

Eligible prescribed persons (typically entities that carry on EITE activities) may apply for a PEC each calendar year by completing the application for a Partial Exemption Certificate (PEC). For 2011 and future years, the application is due before 31 March of the year to which it relates.

All applications received are assessed by the Partial Exemptions team of the ORER for compliance with legislative requirements for the making of PEC applications. If an application is approved by the Regulator, the Regulator will issue the prescribed person with a PEC stating the amount of megawatt-hours of electricity for which exemption can be provided to the liable entity named on the PEC (usually the retail electricity supplier) for electricity used in the EITE activity in the year mentioned on the PEC.

Information about partial exemptions (including details of PECs that have been issued) is published on the Regulator's website in accordance with section 38C of the Act and 22E of the Regulations.

Publishing information as required under the legislation

As part of the recent legislative changes, the Regulator is now required to publish a range of information for the public. Together the Act and Regulations require that the Regulator:

- may publish a list of liable entities that have a shortfall for a particular year, including the amount of each liable entity's shortfall for that year; and the proportion of that shortfall relative to the liable entity's required renewable energy for that year (section 134)
- must publish the renewable power percentage for the year, before 31 March of the year that it applies to (section 39 and Regulation 23)
- must publish the small-scale technology percentage for the year, before 31 March of the year that it applies to (section 40A and Regulation 23A) and an estimate of the next 2 year STPs (section 40B)
- must publish a list of prescribed persons
  - before 1 October each year, the total amount of partial exemptions given for each EITE activity (section 38C and Regulation 22E)
  - within 14 days after the PEC is issued, the name of each person to whom a PEC is issued and the EITE activity set out in the PEC (section 38C and Regulation 22E).
- must, by 31 October in the given year, publish the volume weighted average market price for RECs, including a brief description of the method used to; arrive at the estimate, and weigh the prices and volumes for RECs; details of the sources of information used (Regulations 22ZH). This is applicable to the eligibility criteria for PECs
- must publish a list of the acceptance of undertakings (section 154Q) as required under the civil penalties and other remedies provisions of the legislation. This list applies to eligible parties that conduct activities that contravene the legislation.
- must, at intervals of not more than 6 months, publish on the ORER website an invitation to invite persons (Regulation 19BD) to make requests for determinations under Regulations 19BC. This includes a 30 day period for requests
- must publish details of any determination made by the Regulator in relation to eligible premises (Regulation 20AB and 20AA(5))

- must, for each year, publish the number of inspections conducted under Part 7 – Inspections of SGUs during the year. The Regulator may also publish any other general information about inspections that the Regulator considers appropriate (Regulation 32)
- may publish a person if they are declared ineligible to design and install SGUs for the purposes of Regulation 20AC, providing that the person has been subject to adverse findings on three separate occasions (Regulation 47).

Together the Act and particularly the Regulations refer to documents used by RET participants to comply with the legislation for eligibility purposes. Subsequently the Regulator is required to publish and maintain the following documentation:

- used by manufactures of SWHs to calculate the eligible amount of RECs/STCs for individual SWH models. Documents for this purpose include:
  - REC calculation methodology for solar water heaters and heat pump water heaters with a volumetric capacity over 700 litres
  - REC calculation methodology for solar water heaters and heat pump water heaters with a volumetric capacity up to and including 700 litres
  - Heat Loss Test Procedure for Solar Water Heaters with a Hot Water Storage Tank Greater than 630 (Regulation 3A).

The Register of solar water heaters (section 23AA and Regulation 19C), that lists SWH models that are determined eligible under the applicable Australian and New Zealand standards together with the Act and Regulations.

Role of ORER

- maintains several registers, which include the register of:
  - registered persons
  - accredited power stations
  - renewable energy certificates (RECs)
  - applications for accredited power stations
- accredits eligible renewable energy power stations
- registers RECs for accredited renewable energy power stations
- registers RECs for solar water heater and small generation unit installations
- manages and maintains the online REC Registry
- monitors compliance with the Act
- communicates the Act and Regulations
- updates and maintains the Register of Solar Water Heaters
- manages the partial exemption process for emissions-intensive trade-exposed industries.

Requests to review decisions

A person who has received a decision from the Regulator can lodge a formal review request for the Regulator to reconsider the decision under Part 6 of the Act. For example, an assessment of a renewable energy certificate shortfall is a reviewable decision.

In some cases, it may be possible to resolve issues with the Regulator and/or the ORER contact officer without a formal review.

If issues cannot be resolved without a review, an affected person can lodge a request for a review. The request for a review must be lodged in writing. To assist the Regulator in reviewing the decision, the request should state in detail the grounds for review. The request for a review of the decision must be given to the Regulator within 60 days after the decision is made.

At this point the Regulator can ask an ORER officer who was not involved in the original decision to assist in the review. The Regulator reviews the original decision with reference to the reviewing officer's recommendation. The person seeking the review will be informed in writing, explaining the reasons for the review decision. The original decision is confirmed if the Regulator does not give written notice of the review decision within 60 days of the request.

If the affected person is not satisfied with the review decision they can apply to the Administrative Appeals Tribunal (AAT) for a review of the decision.

A list of decisions that can be reviewed by the Regulator, can be found on the ORER website at **www.orer.gov.au/publications/appeals.html**

No application for internal review under section 66 of the Act was lodged in 2010. The following information provides details of previous internal reviews:

- In October 2009, a request for internal review of Regulators in respect of a power station accreditation was lodged with ORER. The Regulator appointed a Review Officer to conduct the internal review. The internal review confirmed the original decision and was completed in December 2009. The company then lodged an appeal for review of the decision before the Administrative Appeals Tribunal (AAT). The company withdrew the application on 19 April 2010.
- An application for internal review of accreditation decision under section 66 of the Act was received on 12 March 2009. The Regulator appointed a Review Officer to conduct the internal review. The Review Officer confirmed the original decision. The company lodged an appeal for review of the power station accreditation decision before the AAT. The ORER is awaiting the AAT decision.

CHAPTER 2

2010 ACTIVITY

Summary of 2010

The Act operates on a calendar year basis. This report focuses on the operation of the Act between 1 January and 31 December 2010. In some areas, previous year's data is provided for comparison purposes.

2010 Activity

Number of registered person applications approved	664
Number of applications for renewable energy power stations accredited	24
Number of applications for Partial Exemption Certificates	106
Number of SWH & SGU installations that created RECs in 2010	275,631
Number of RECs created	35,556,875
Busiest month for REC creation	December
Number of REC transfer transactions in the REC Registry	10,710
Number of RECs accepted for voluntary surrender	2,424,338
Number of RECs accepted for non-compliance [1]	19,071
Number of RECs accepted for surrender for the 2009 compliance year [2]	7,836,085
Number of liable parties with a 2009 shortfall	4
2009 liability acquitted by REC surrender	99.96%
Number of applications for annual transfer number	13

2001 – 2009 Activity

Number of registered persons approved	1,000
Number of applications for renewable energy power stations accredited [3]	292
Number of SWH & SGU installations that created RECs	578,119
Number of RECs created	53,328,081
Busiest month for REC creation – 2009 only	December
Number of REC transfer transactions in the REC Registry	12,676
Number of RECs accepted for voluntary surrender [4]	4,475,160
Number of RECs accepted for surrender [2]	33,926,156

[1] The legislation to support non-compliance commenced in 2010. Therefore this data is only available from 2010.

[2] This includes RECs surrendered against future liability.

[3] This includes one power station accredited in 2010 whose accreditation date was in 2009.

[4] This is a revised number as compared to the 2009 Annual Report.

Registration of persons

During 2010, ORER processed 664 applications to be a registered person. The registrations covered a range of individuals and companies seeking to create RECs for renewable energy power stations or deemed units. The growth in applications predominately relates to an increase of individuals wanting to create RECs for their deemed unit installations.

As at December 2010, the total number of registered persons accounts since commencement of the scheme reached 1,664.

Accreditation of power stations

For the ORER to assess an `Application for Accreditation of a Power Station' form the applicant must successfully complete all sections of the form and supply sufficient supporting evidence to demonstrate that the renewable energy power station can be accredited under the RET.

When the application is deemed to be correctly made by ORER, the applicant is notified by email to pay an accreditation fee online through the REC Registry. Once the fee has been paid, details of the renewable energy power station are listed on the public `Register of Applications for Accredited Power Stations' (accessed via the REC Registry) and the application process continues.

If the application is `properly made' under section 13 of the Act (this includes payment of the fee), and the Regulator approves the application under sections 14 and 15 of the Act, the renewable energy power station is listed on the `Register of Accredited Power Stations' and becomes eligible to create RECs.

The applicant will then be entitled to create RECs for eligible electricity that was generated after the date the application was deemed to be properly made under section 13 of the Act. If the renewable energy power station begins generating electricity after this date, RECs can be created from the date the renewable energy power station begins generating eligible electricity.

Of the 357 renewable energy power station applications listed in the REC Registry as at 31 December 2010:

- 316 renewable energy power stations were accredited and eligible to create RECs from renewable energy sources under the Act. This includes 24 renewable energy power stations that were accredited in 2010.
- 13 renewable energy power stations have been de-accredited up to 2009. No renewable energy power stations were de-accredited in 2010.
- 3 renewable energy power station applications were pending registration as at 31 December 2010.
- 21 renewable energy power station applications were withdrawn up to 2009 because applications were not properly made by applicants as at 31 December 2009. No renewable energy power station applications were withdrawn in 2010.
- 4 renewable energy power station applications were not approved as at 31 December 2010 by applicants.

In 2010, no accredited power stations were suspended under section 30D or 30E of the Act.

Requesting variations to renewable energy power station accreditations

In 2010 the Regulator received one request from a registered person with the ORER to vary the renewable energy power station baselines for their power stations. In this case, the Regulator amended the renewable energy power stations baselines.

Comparative number of renewable energy power stations accredited

Renewable energy source	Accredited in 2009	Accredited in 2010
Food Processing Waste	0	2
Hydro	3	10
Landfill Gas	3	2
Sewage Gas and Biomass-Based Components of Sewage and Municipal Solid Waste	7	0
Solar	4	4
Wind	5	6
Comparative number	**22**	**24**
Total number of power stations accredited	**292**	**316**

Comparative number of accredited renewable energy power stations

Renewable energy source	Accredited up to 2009	Accredited up to 2010
Agriculture, Food and Agriculture Waste	7	9
Bagasse Co-generation, Energy Crops	27	27
Black Liquor	2	2
Hydro	85	95
Landfill Gas	57	59
Sewage Gas and Biomass-Based Components of Sewage and Municipal Solid Waste	18	18
Solar	36	40
Wind	47	53
Wood Waste	13	13
Total	**292**	**316**

Number of accredited renewable energy power stations by state as at 31 December 2010

Renewable energy source	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Agriculture, Food and Agriculture Waste	0	1	1	2	0	0	2	3	9
Bagasse Co-generation, Energy Crops	0	3	0	23	0	0	0	1	27
Black Liquor	0	1	0	0	0	0	1	0	2
Hydro	1	28	0	10	0	33	20	3	95
Landfill Gas	2	15	1	12	4	3	13	9	59
Sewage Gas and Biomass-Based Components of Sewage and Municipal Solid Waste	0	9	0	4	0	1	3	1	18
Solar	1	11	6	4	5	1	6	6	40
Wind	0	6	0	3	14	5	12	13	53
Wood Waste	0	6	0	3	1	1	1	1	13
Total	**4**	**80**	**8**	**61**	**24**	**44**	**58**	**37**	**316**

Partial exemption certificates

In 2010, the Regulator received 106 partial exemption certificate (PEC) applications by the 1 December 2010 deadline. Applications from prescribed persons spanned all 29 eligible emissions-intensive trade-exposed (EITE) activities. These PEC applications from eligible EITE activities sought partial exemption totalling 9,389 gigawatt-hours (GWh).

As at 31 December 2010, 15 PECs were issued totalling 2,651 GWh of partial exemption under the legislation.

In accordance with Regulation 22E(2) of the Regulations, the name of the person to whom a PEC is issued and the EITE activity that the PEC relates to is published on the ORER website. The list of issued PECs is available at **www.orer.gov.au/publications/pecs-issued.html**

Total amount of partial exemptions given for each EITE activity as at 1 October 2010

EITE activity	Partial exemption (MWh)
Smelting zinc	271,819
Integrated production of lead and zinc	17,887
Total	**289,706**

* Please note that in accordance with Regulation 22E(3) of the Regulations, the total amount of partial exemptions given for each EITE activity must be published by 1 October in the year to which the partial exemptions relate.

Volume weighted average market REC price for 2011

Under Regulation 22ZH of the Regulations, the Regulator is required to estimate and publish the volume weighted average market price for a REC for the 2011 year, by 31 October 2010. The Regulator estimated the volume weighted average market price for a REC for the 2011 year at $38.39 and published this, along with the methodology used to estimate the volume weighted average market price, at **www.orer.gov.au/eites/2011-REC-VWAP-methodology.html.** The volume weighted average market price for a REC for the 2011 year is factored into the calculation of the partial exemption assistance rate for the year.

SWH and SGU installations

From 1 April 2001 to 31 December 2010 more than 853,000 deemed unit installations created RECs in the REC Registry. Of these, more than 110,000 SWH and 164,000 SGU installations created RECs between 1 January 2010 and 31 December 2010. Of the SGU installations, solar makes up 99.86 per cent of the installations followed by wind (0.13) and hydro (0.01).

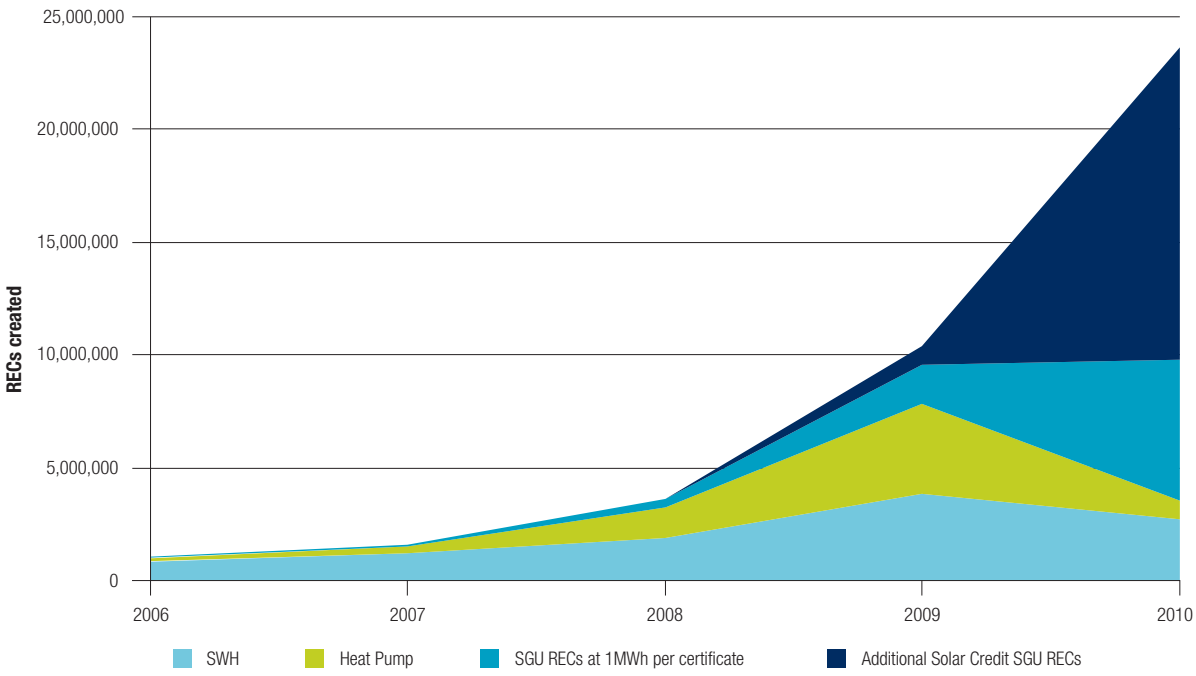
During 2010:

- Approximately 9,000 SWH installations were installed each month compared to approximately 16,000 per month in 2009.
- Approximately 13,500 SGU installations were installed each month compared to approximately 5,000 per month in 2009.

Growth in the installation of solar panels was encouraged by various state and federal initiatives including Solar Credits, a mechanism administered by ORER which multiplies the number of RECs able to be created for SGUs installed on or after 9 June 2009.

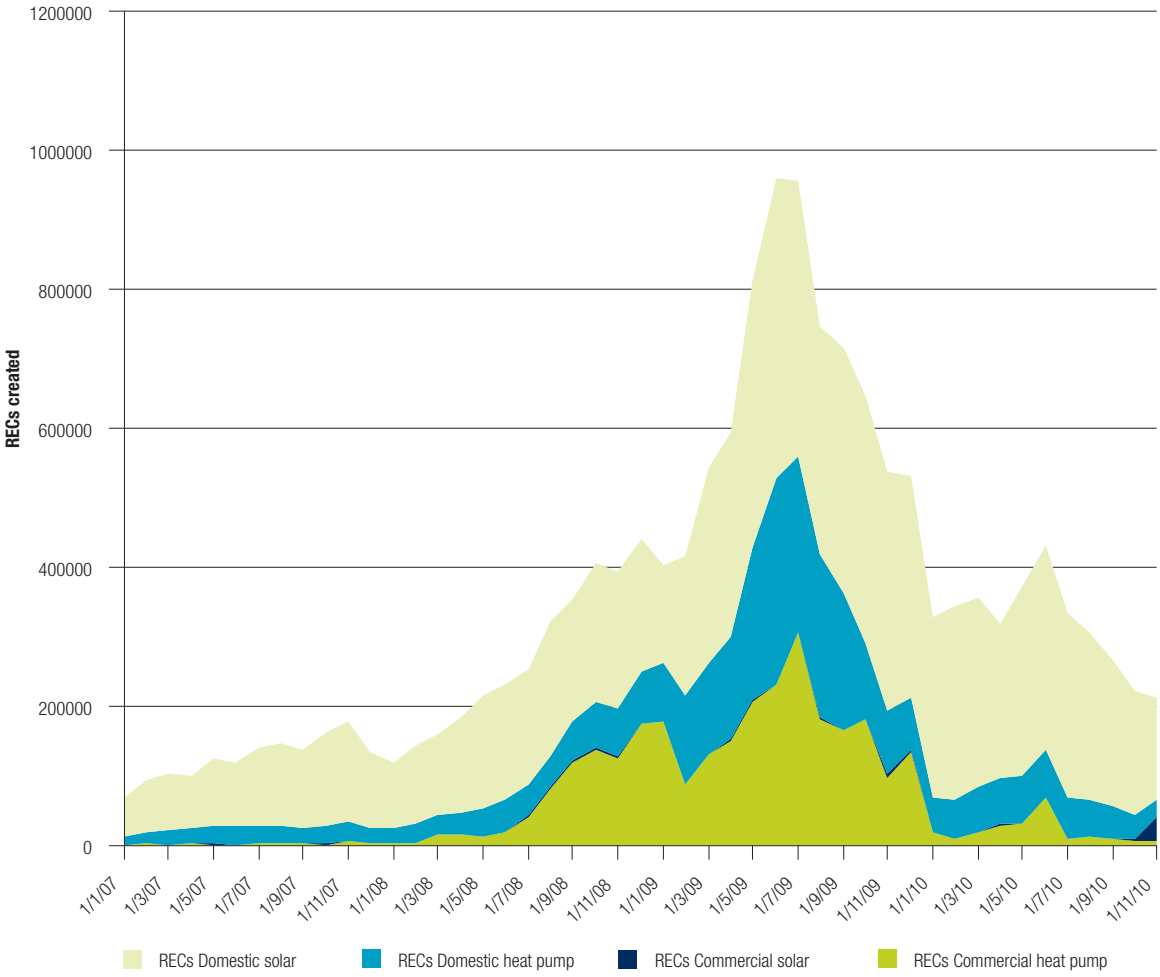
Number of created RECs for eligible small-scale systems – 2006 to 2010

The graph below shows the number of RECs that have been created for small-scale deemed unit systems installed from 2006 to end 2010. From 9 June 2009 onwards the graph shows the number of certificates created from the Solar Credits multiplier.



RECs deemed for solar hot water and heat pump installations 2007 – 2010

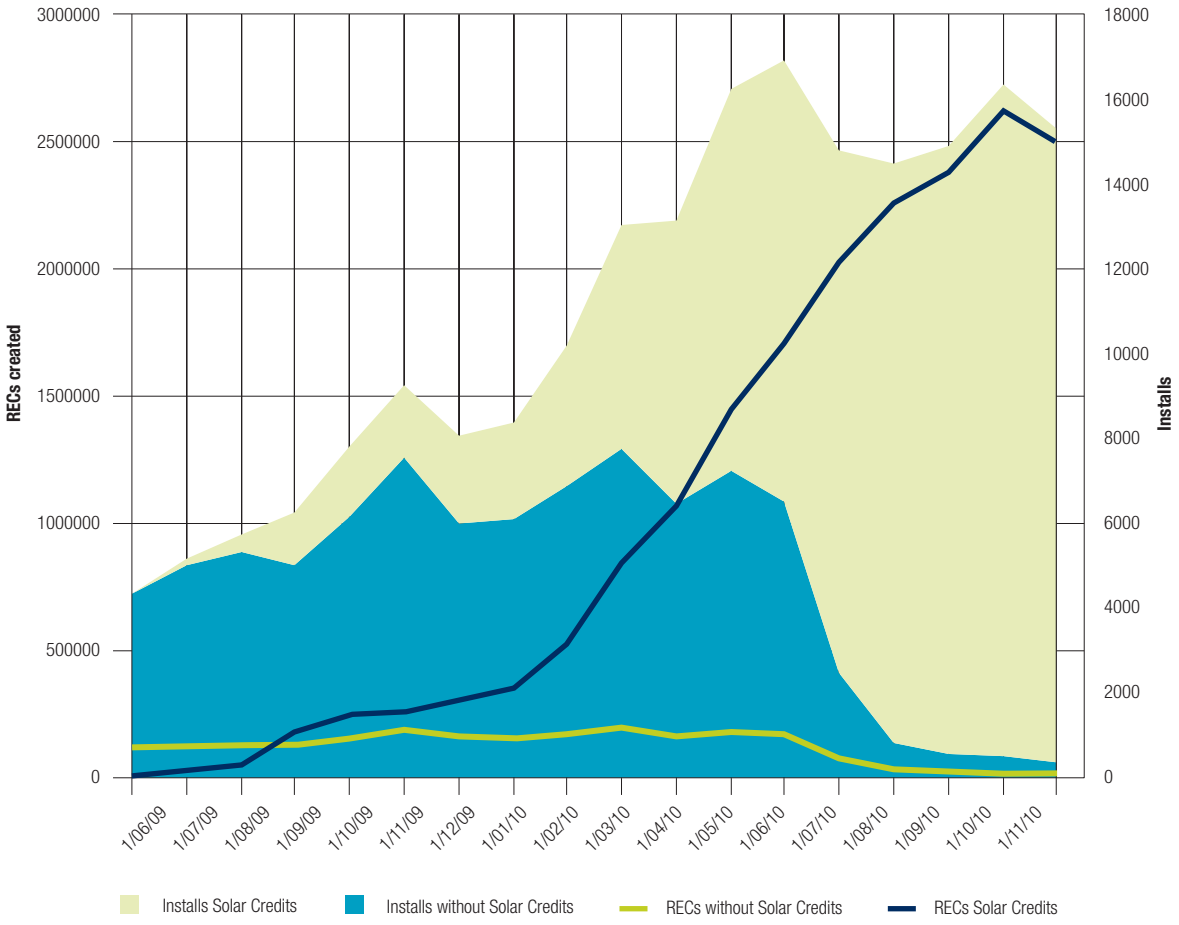
The graph below represents RECs created by the four solar water heater types (domestic solar, domestic heat pump, commercial solar, commercial heat pump). Domestic solar hot water systems accounted for the majority of RECs deemed in 2010 closely followed by domestic heat pumps equating to 76% of all RECs and 17% of all RECs respectively.*



* These figures are based on the date the system was installed and is current as at 31/01/11. These numbers are likely to increase as certificates can be created up to 12 months after the date the system was installed.

Small generation units and Solar Credits 2009 – 2010

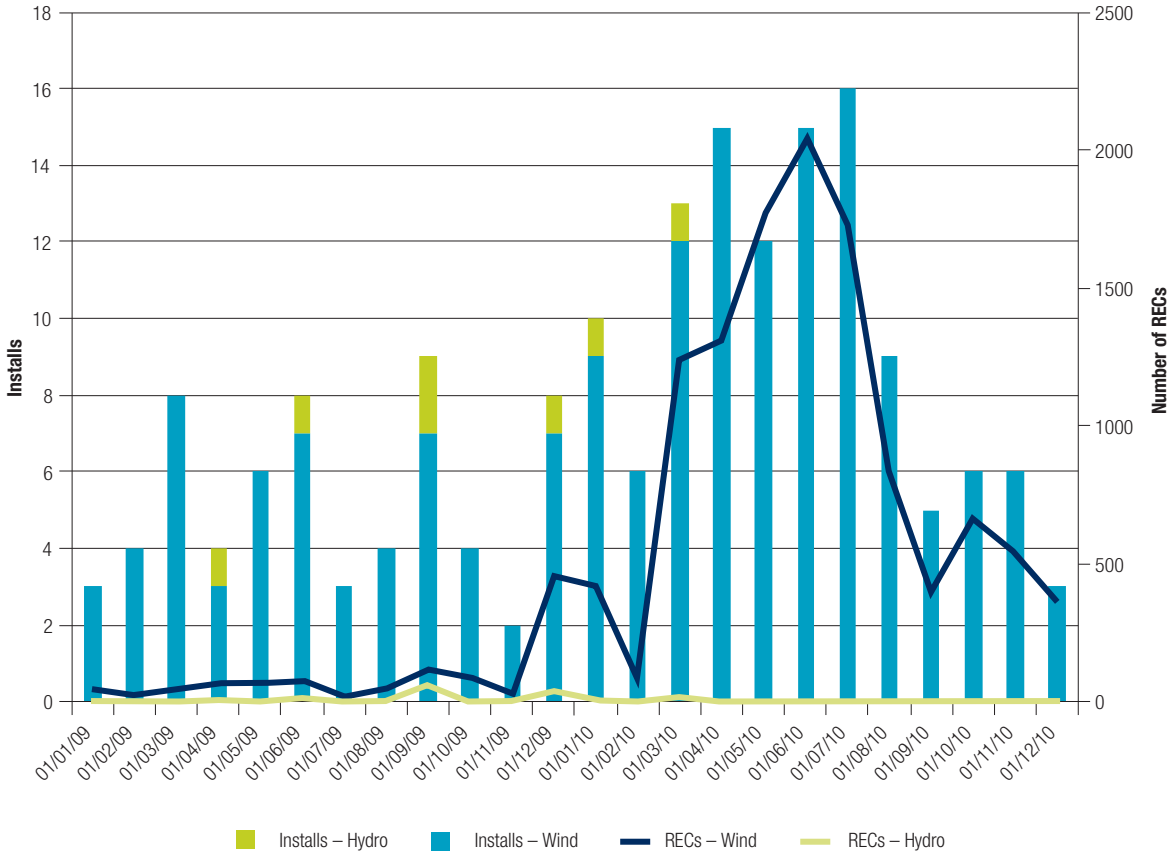
The graph below represents RECs created by small generation units which includes hydro, wind and photovoltaic. The total number of small generation units installed in 2010 was 164,671. Of these around 72%, or 118,601 systems received Solar Credits.*



* These figures are based on the date the system was installed and is current as at 31/01/11. These numbers are likely to increase as certificates can be created up to 12 months after the date the system was installed.

Small generation wind and hydro systems – 2010 activity

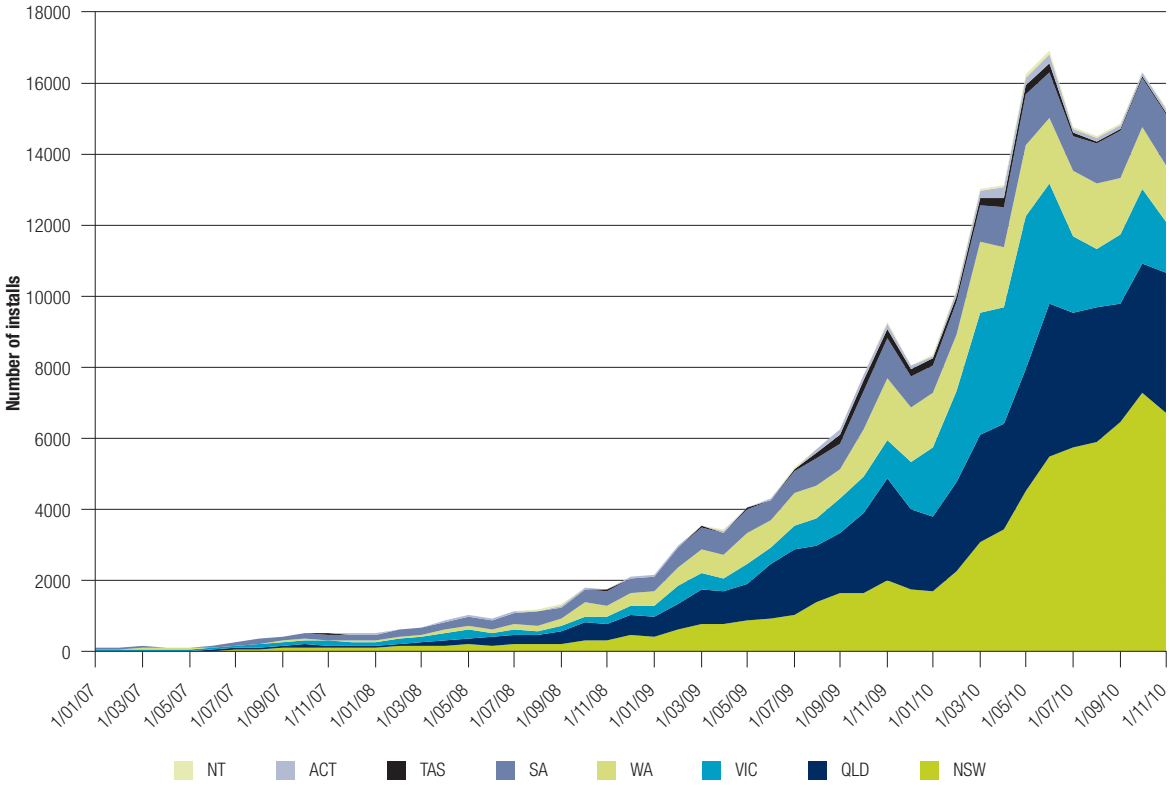
The graph below represents number of installation against and RECs registered. After photovoltaic systems, small-scale wind systems were the most popular small generation unit during 2010 with 30 systems installed, receiving 632 RECs.*



* These figures are based on the date the system was installed and is current as at 31/01/11. These numbers are likely to increase as certificates can be created up to 12 months after the date the system was installed.

PV installations by State 2007 – 2010

The graph below represents number of photovoltaic installations registered by state. The greatest number of photovoltaic installations in 2010 were in NSW at 33% followed by Queensland (23%) and Victoria (17%).*



* These figures are based on the date the system was installed and is current as at 31/01/11. These numbers are likely to increase as certificates can be created up to 12 months after the date the system was installed.

Assessing the validity of created renewable energy certificates

A total of 88,884,956 RECs had been created in the REC Registry as at 31 December 2010. Of these, 35,556,875 RECs were created between 1 January 2010 and 31 December 2010. In accordance with the Act, only registered RECs created between 2001 – 2010 can be used to acquit a liable entitie's 2010 REC liability.

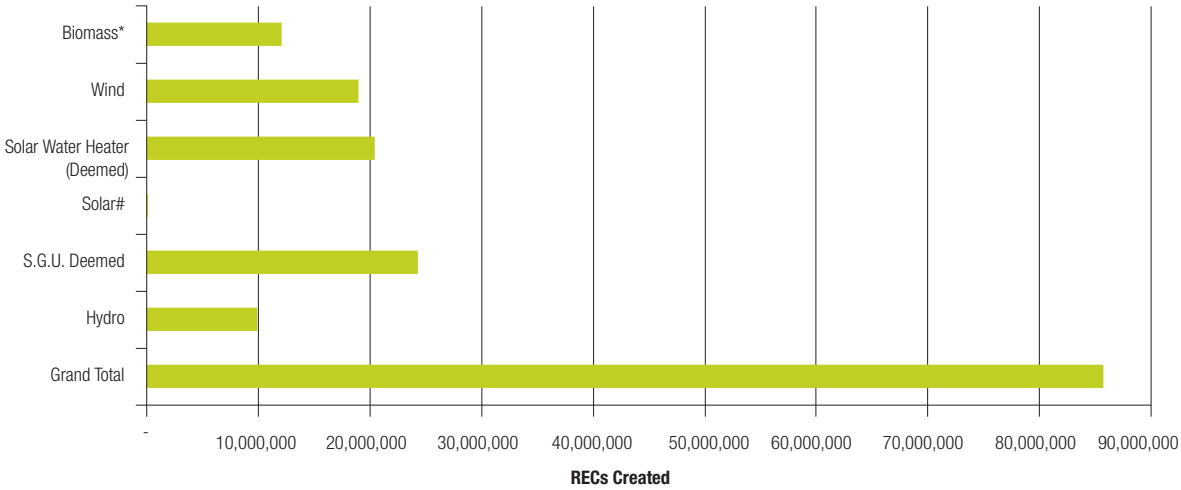
As at 31 December 2010, there were:

- 42,576,189 registered RECs
- 2,313,708 RECs pending registration
- 33,926,156 RECs accepted for surrender by ORER against the 2001 – 2009 liability compliance periods. These RECs are marked 'invalid due to surrender' in the REC Registry
- 1,148 RECs pending voluntary surrender (section 28A)
- 6,917,421 RECs accepted under section 28A of the Act for voluntary surrender. These RECs are marked 'invalid due to voluntary surrender' in the REC Registry.
- 3,151,482 RECs were failed. These RECs are marked 'invalid due to audit' in the REC Registry.

As shown in the graph below, a wide range of eligible renewable energy sources were used to create RECs in 2010. Not all accredited renewable energy power stations, agents or individuals created RECs in 2010.

As was the case in previous years, ORER recommended that registered persons create their eligible RECs by 31 December 2010 to ensure RECs could be validated by ORER in January 2011 and be available for trading to liable entities prior to the compliance date of 14 February 2011.

RECs created by 31 December 2010 by eligible renewable energy sources



* Biomass includes multiple energy sources under the Act (agricultural waste, bagasse, bagassee co-generation, biomass-based components of municipal solid waste, black liquor, crop waste, energy crops, food and agricultural wet waste, food processing waste, food waste, municipal solid waste combustion, sewage gas, sewage gas and biomass-based components of sewage, waste from processing of agricultural products and wood waste).

Solar includes both RECs created under the energy source of solar (excluding SGU) and photovoltaic under the Act.

Power stations and certificates transferred from VRET

The September 2009 amendments to the Act resulted in transition of certain power stations under Victorian Renewable Energy Target (VRET) Scheme into national RET scheme. Following 8 renewable energy power stations were transferred to national RET on 1 February 2010:

Power Station	Renewable Energy source
Mt View Micro Hydro – VIC	Hydro
Notting Hill Micro Hydro – VIC	Hydro
Pine Gully Micro Hydro – VIC	Hydro
Olinda Mini Hydro – VIC	Hydro
Upper Yarra Mini Hydro – VIC	Hydro
Silvan Mini Hydro Hydro – VIC	Hydro
Cape Bridgewater Wind Farm – VIC	Wind
Cape Nelson South Wind Farm – VIC	Wind

RECs transferred from VRET

The amendments to the Act also resulted in transfer of certificates from VRET into the national RET. A breakup of certificates transferred from VRET as at the end of 2010 is provided below.

Category	2008	2009	2010	Total
Deemed units	2,629	6,405	116	9,150
Renewable Energy Power Stations	88	24,099	866	25,053
Total	**2,717**	**30,504**	**982**	**34,203**

Power Station creation

Under section 19 of the Act, accredited renewable energy power stations are allowed to create RECs for eligible renewable electricity generated above the renewable energy power station's baseline for 2009 generation year by the 31 December 2010 deadline. Renewable energy power stations which did not create RECs within the allowed timeframe are no longer eligible to create RECs for the eligible renewable electricity generated in the 2008 generation year. ORER estimates that:

- less than 4,000 RECs remained uncreated by 23 registered persons for the 2009 generation year, including 8 registered persons who failed to create RECs for eligible generation.

Deemed unit creation

Under section 21 of the Act, eligible SWH RECs must be created within 12 months of the installation date. If agents or individuals do not create RECs within the allowed timeframe they are no longer eligible to create RECs for their SWH installation.

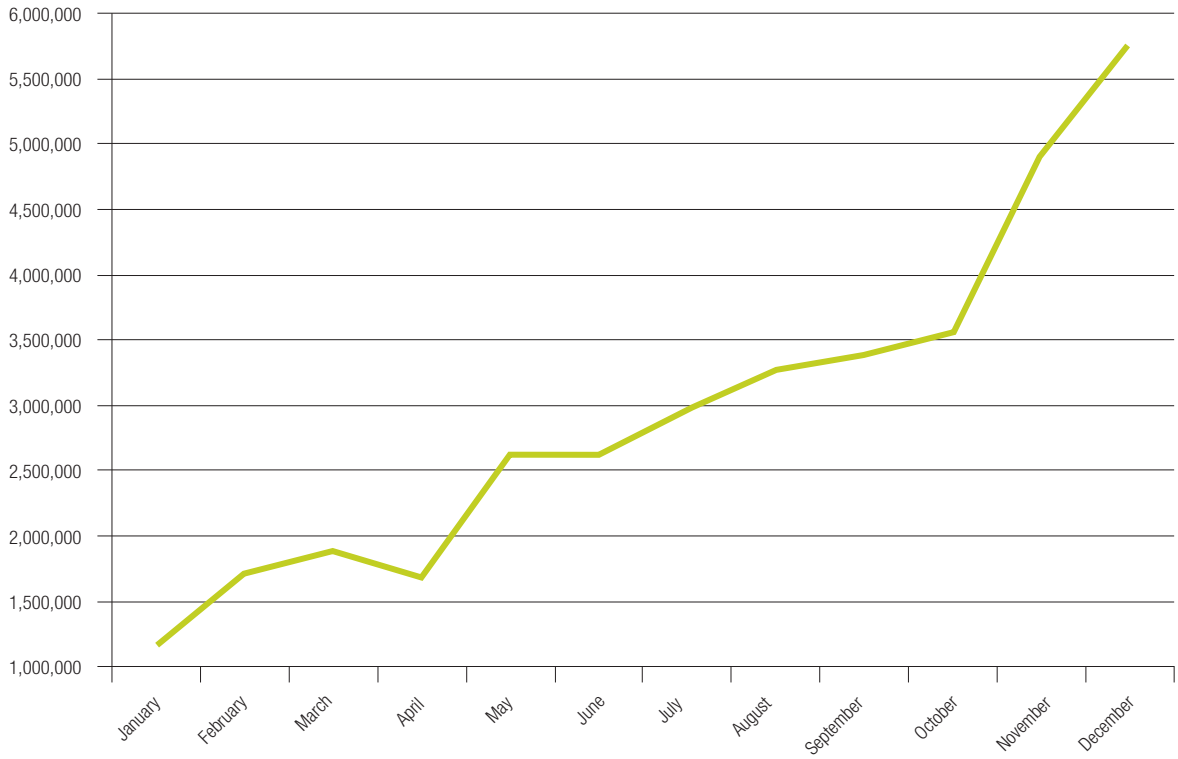
Under Regulation 19D of the Regulations for section 23A of the Act, eligible SGUs installed on or after 6 October 2007 must create RECs:

- within 12 months of the installation date for a one year or five year period
- at the end of the period that the right was exercised to create RECs. For example, a person created RECs for an installation for one year. At the end of that period the person may create RECs for another year until the end of the RET
- within 12 months of the installation date for a 15 year period. If this option is chosen no further RECs can be created for the installation.

SGUs installed between 1 April 2001 and 5 October 2007 are eligible to create RECs at anytime for a one or five year period. At the end of each period owners or agents (if the RECs have been assigned) can create RECs for the next deeming period.

If agents or individuals do not create RECs within the allowed timeframe they are no longer eligible to create RECs for their SGU installation.

RECs created in 2010 by month



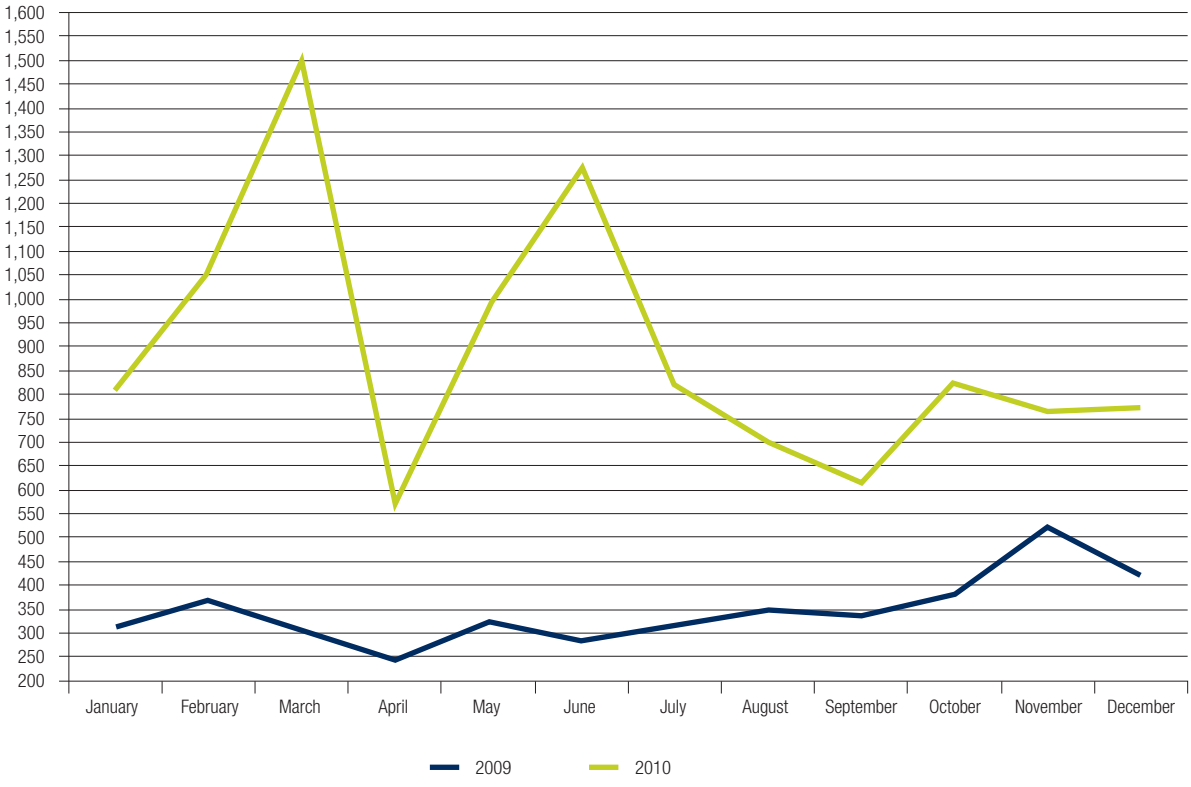
REC transfer activity

A total of 23,386 REC transfers took place in the REC Registry as at 31 December 2010, representing a total of 150,552,170 RECs. Of these, 10,710 REC transfers occurred in 2010, representing a total of 63,834,001 RECs.

As at 31 December 2010, there were:

- 22,390 accepted transfers, representing a volume of 141,371,671 RECs
- 841 transfers cancelled by the sellers, representing a volume of 7,845,609 RECs
- 121 transfers rejected by the buyers, representing a volume of 1,199,633 RECs
- 34 pending action transfers, representing a volume of 135,257 RECs.

Number of REC transfer by month in 2009 and 2010



Other surrender

All registered owners of RECs can choose to make other REC surrender offers for any reason under section 28A of the Act. For example, individuals or companies may choose to make other surrender REC offers:

- to encourage additional generation of electricity from renewable energy sources. If offers are made for this, or similar reasons they are considered to be voluntary surrender offers
- to meet GreenPower obligations. For more information on GreenPower visit **www.greenpower.gov.au.** If offers are made for this reason they are considered to be voluntary surrender offers
- in a small number of cases to offset the impacts of improper creation of RECs under the civil penalties and other remedies provisions of the legislation. Improper creation of RECs can incur penalties and are reported as a fraudulent activity. If offers are made for these reasons they are considered to be non-compliance surrender offers

Any REC accepted for other surrender is permanently removed from the REC market and cannot be transferred to another party or be used to discharge a mandatory liability under the Act. Once the RECs are accepted by ORER they are marked as 'invalid due to voluntary surrender' in the REC Registry.

Voluntary

Voluntary surrender was introduced through legislative changes in 2006. Since this time a number of individuals have decided to voluntary surrender RECs for various purposes. However, one of the driving factors that increases the number of RECs voluntary surrender annual is GreenPower participants voluntary surrendering RECs to meet their annual obligations by 31 March.

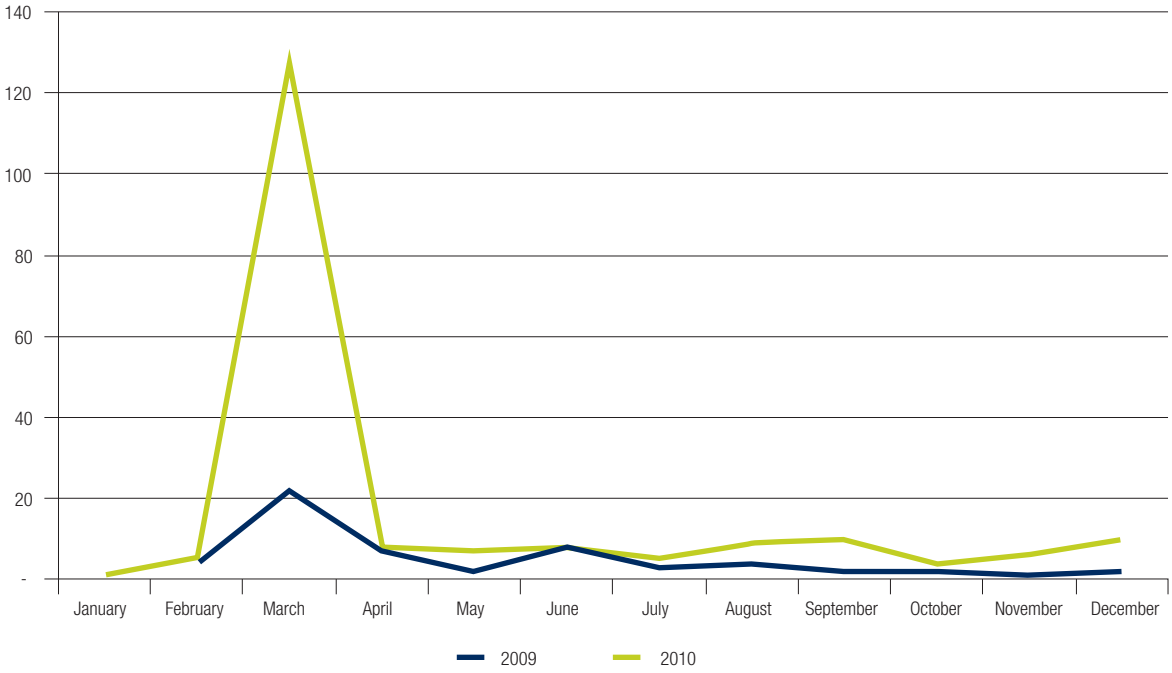
As at 31 December 2010 a total of 6,899,498 RECs, representing 343 offers, had been accepted for voluntary surrender in the REC Registry. Of these, 2,424,338 RECs, representing 184 offers were accepted for voluntary surrender between 1 January 2010 to 31 December 2010. The busiest month in 2010 for voluntary surrender was March, with 1,574,888 RECs offered, representing 129 offers. Overall, this is an increase of 351,088 RECs and 127 offers as compared to the 2009 calendar year. Voluntary surrender for GreenPower purposes represents approximately 94.87% for 2010 and 99.95% for 2009.

Non-compliance

On 28 June 2010 civil penalty and other remedies, including enforceable undertaking provisions, were introduced into the legislation.

As at 31 December 2010 a total of 19,071 RECs, representing 19 offers, had been accepted for improper creation surrender in the REC Registry. The busiest month in 2010 for non-compliance surrender was August with 16,444 RECs offered, representing 7 offers.

Number of voluntary surrender offers accepted by month



Compliance and assessment of annual statements and returns

The 2010 compliance period commenced on 1 January 2010 and ended on 31 December 2010.

The due date for the lodgement of the EGR, SWH/SGUR, AEAS and RESS for the 2010 compliance period was 14 February 2011. Comprehensive details regarding the 2010 compliance period will be provided in the 2011 Annual Report.

The 2009 compliance period commenced on 1 January 2009 and ended on 31 December 2009. The due date for the lodgement of the EGR, SWH/SGUR, AEAS and RESS for the 2009 compliance period was 15 February 2010.

Summary of EGR and SWH/SGUR compliance and assessment

EGRs and SWH/SGURs assessments for 2001 – 2009 generation years (or compliance years) were analysed and the number of RECs that remained uncreated are seen below. The table demonstrates the:

- amount of renewable electricity generated or deemed to have been generated for REC eligibility
- number of RECs which have been created and validated through a registration process (registered RECs)
- amount of RECs which cannot be created for eligible generation from accredited renewable energy power stations because nominated persons did not create the RECs within the timeline as stipulated under section 19 of the Act.

EGR compliance and assessment

By 31 December 2010 a total of 274 EGRs were received for the 2009 generation year. Assessment of the EGRs continued throughout the 2010 calendar year, and 273 EGRs were completed as of 31 December 2010. A confirmation of the assessed EGRs was provided to the relevant company contact. One EGR will be carried forward for completion in 2011 as the ORER is awaiting clarification on the generation issues.

SWH/SGUR compliance and assessment

By 31 December 2010 a total of 117 SWH/SGURs were received for the 2009 compliance period. All completed SWH/SGURs received by ORER were assessed by October 2010 with confirmation of the assessment provided by ORER to the relevant company contact.

Comparing REC eligibility and registered RECs by generation years to view RECs remaining

Category	2001 [2] '000	2002 '000	2003 '000	2004 '000	2005 '000	2006 '000	2007 '000	2008 '000	2009 '000
REC Eligibility [1]									
Deemed Units	217	528	712	821	1,011	1,050	1,625	3,632	10,386
Renewable Energy Power Stations	1,448	2,253	3,644	2,583	3,812	4,144	4,662	5,053	6,787
Total	1,665	2,781	4,356	3,404	4,823	5,194	6,287	8,685	17,173
Registered RECs									
Deemed Units	217	528	712	821	1,011	1,050	1,625	3,632	10,386
Renewable Energy Power Stations	1,446	2,252	3,644	2,583	3,812	4,144	4,662	5,053	6,783
Total	1,663	2,780	4,356	3,404	4,823	5,194	6,287	8,685	17,169
RECs Remaining									
Deemed Units [3]	-	-	-	-	-	-	-	-	-
Power Stations [4]	2	1	-	-	-	-	-	-	4

Notes

[1] One megawatt hour of renewable electricity generated or deemed to have been generated equals one REC.

[2] The measure commenced on 1 April 2001. The first compliance period being 2001 was 9 months. All other compliance years are full calendar years.

[3] There are no remaining RECs for SWHs as the time allowed to create these deemed units has expired. From 6 October 2007 there are no RECs remaining for SGUs as the time allowed to create these deemed units has expired. From 1 April 2001 to 5 October 2007 there still could be RECs remaining for SGUs if eligibility requirements are met. There is no data available to report the number of RECs remaining for this category.

[4] The number of RECs remaining can change if EGRs are amended or additional information is received by ORER for example, at the conclusion of an audit. However, under section 19 of the Act nominated persons are no longer eligible to create RECs in respect of the 2001-2009 generation years after 31 December 2010.

[5] This table now includes RECs that were registered under the Victorian Renewable Energy Target and transferred into the REC Registry under the *Renewable Energy (Electricity) Amendment (Transitional Provisions) Regulations 2009*. For details refer to the VRET Registered RECs table on page 21.

Summary of AEAS and RESS compliance and assessment

AEAS and RESS assessments for 2001 – 2009 compliance years were analysed by ORER. The graph on page 27 represents the number of RECs that have been accepted to discharge a mandatory liability under the Act for the given compliance year against the legislated target.

The 2010 AEAS and RESS assessments will be finalised during 2011 and the RECs offered to discharge these liabilities will be accepted. RECs were offered to discharge 2010 liabilities under the Act between 1 January 2011 and 14 February 2011. These activities will be reported in the 2011 Annual Report.

AEAS and RESS liability and assessment

By 31 December 2010, a total of 33,926,156 RECs were accepted for surrender against the 2001 to 2009 compliance periods and banked against future liabilities. RECs which have been accepted for surrender against future liabilities are carried forward surplus RECs. The carried forward surplus RECs can be used by relevant liable entities to discharge their liability for future compliance periods.

For the 2009 compliance period ORER identified that 215,163,334 MWh of electricity had been reported in liable acquisitions. This resulted in a liability of 7,831,947 RECs[1].

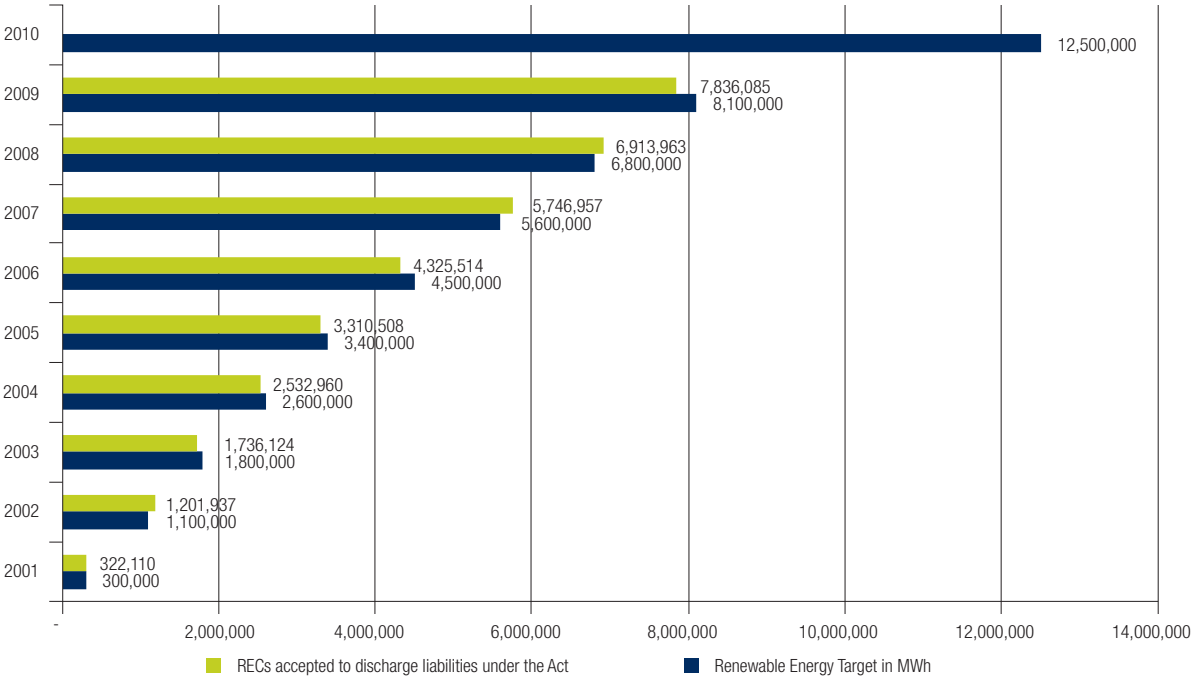
For the 2009 compliance period the majority of the AEAS/ RESS were submitted to ORER by the due date of 15 February 2010. A total of 76 liable entities were identified and were required to surrender RECs.

For the 2009 compliance period, only 4 out of the 76 liable entities had individual shortfalls. The 2009 shortfall was effectively 2,896 RECs. As at 31 December 2010 more than 99.96 percent of the 2009 liability was met by the surrender of RECs.

In addition to addressing 2009 liabilities, liable entities are permitted by the Act to provide RECs to redeem any outstanding shortfall charges in the immediate three years following the shortfall year. One liable entity redeemed a 2006 REC shortfall and one liable entity redeemed a 2001, 2002 and 2003 REC shortfall. By 31 December 2010, the number of liable entities with a REC shortfall for the 2001 – 2008 compliance periods was 6 and the total REC shortfall was 595 RECs.

[1] The sum of individual liability may produce a total liability greater or lesser than the liability calculated by multiplying total liable acquisitions by the 2009 Renewable Power Percentage (RPP). This is due to the rounding of individual liability to whole RECs.

REC surrender against liability under the Act



Summary of REC surrender for the 2009 compliance period as at 31 December 2010

RECs surrendered against 2009 liability	7,836,085
RECs surrendered against 2001 – 2008 liability	26,090,071
Total RECs surrendered against 2001 – 2009*	33,926,156
RECs surrendered against future liability	31,372
2009 liability acquitted by RECs surrender	**99.96%**
Parties with a 2009 liability	76
Parties with a 2009 shortfall	**4**
Parties with a 2001 – 2008 shortfall	6
REC shortfall for 2009	2,896
REC shortfall for 2001 – 2008	**595**

* This includes RECs surrendered against future liability

Note: Not all shortfalls resulted in the payment of the penalty of $40/MWh, as shortfalls within 10% of the total requirement are carried forward to next year's REC liability.

Compliance with legislation

The below table shows the compliance activities conducted by ORER on a monthly basis. These activities do not include ongoing investigations, desktop reviews or audits.

Compliance activities January – December 2010

Activity	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
Site visits [1]	87	51	8	12	42	102	23	29	24	22	22	0	**422**
Pre-validation checks [2]							519	562	1121	570	1448	917	**5137**
Outreach visits [3]	1	5	0	0	1	2	2	7	1	2	3	1	**25**
Warrants executed [4]	0	0	1	0	2	1	1	0	0	3	0	1	**9**
Compliance visits [5]	2	0	0	0	1	7	7	2	1	2	12	1	**35**
Suspension [6]	0	*1	0	0	0	0							**1**
Enforceable undertakings [7]							0	0	0	0	0	1	**1**

[1] Site visits include physical visits to installation sites and power stations, but also include physical checks of sites where installations are viewed from the street to confirm that an installation has occurred.

[2] Pre-validation checks are checks carried out prior to the validation of RECs, these include telephone verification with the system owner, checks of aerial photography to verify installation, requests and review of compliance paperwork from agents and physical site inspections.

[3] Outreach visits are visits to stakeholders that are not in response to a specific compliance issue and can be instigated either by ORER or at request from the stakeholder.

[4] Warrants executed refers to the execution of monitoring warrants under s125 of the Act.

[5] Compliance visits refers to visits to stakeholders in relation to specific compliance issues.

[6] Suspension of agent's registration.

[7] Enforceable undertakings. The Regulator may accept an undertaking from a person that they will take specific action or refrain from taking specific action to comply with the Act or that the person will surrender one or more renewable energy certificate to compensate for the creation of certificates that they were not entitled to create. If a person enters such an undertaking and the Regulator consider that the person has breached the undertaking the Regulator may apply to the Federal court for enforcement of the order.

Liability assessment audits

In 2010, ORER initiated five field audits for liable entities relating to the 2009 compliance period liability. Three audits were completed in 2010, while the remaining two will be completed early in 2011. The audits were performed to substantiate information provided to the ORER and to determine compliance with the Act.

The field audits confirmed that all audited liable entities were reporting consistently and fully in accordance with the legislation. As in previous years ORER found that some liable entities appear to lack the proper internal procedures that would lead to efficient and accurate reporting of relevant acquisitions.

Compliance outcomes

The compliance activities undertaken since the commencement of the compliance team in June 2009 have increased stakeholder awareness of compliance obligations through the updated compliance web page, agents workshops in capital cities and numerous outreach visits. The inclusion of compliance statistics on the web page aims to send a clear message to stakeholders of ORER's commitment to ensuring compliance with the Act by all parties. The inclusion of civil penalties and enforceable undertakings as part of the amendments to the Act will enable a more tiered approach to compliance outcomes and gives the Regulator a greater range of options to resolve non-compliance issues and to encourage by all stakeholders.

CHAPTER 3

OTHER ACTIVITIES

Amending the Act

ORER continues to work with the Department of Climate Change and Energy Efficiency to identify issues and develop solutions in respect of a variety of administrative matters related to the RET.

Amendments to the Act supporting the delivery of the enhanced RET were passed on 24 June 2010 and received Royal Assent on 28 June 2010. The legislation commenced on 1 January 2011.

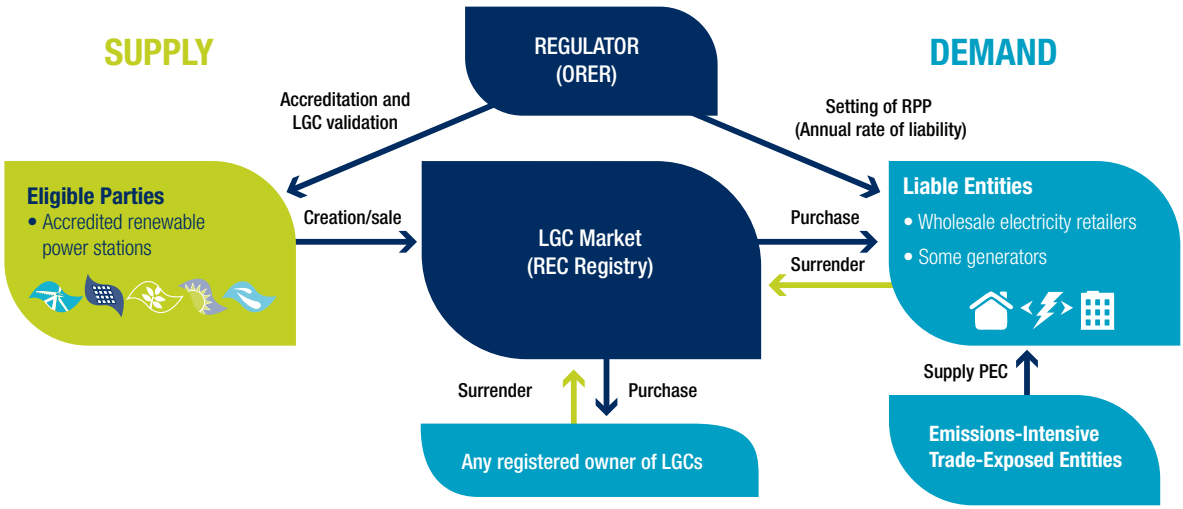
Amendments to the Act include but are not limited to:

- referring to renewable energy certificates (RECs) as large-scale generation certificates (LGCs) or small-scale technology certificates (STCs)
- separating the Register of RECs into the Register of LGCs and Register of STCs
- introducing new requirements that will enforce non-compliance
- updating and introducing requirements for liable entities to lodge annual energy acquisition statements and surrendering LGCs and STCs
- various transitional requirements
- provisions for reviewing the Act every two years from 30 June 2012
- adjusting the renewable energy targets (section 40) to give consideration to the amount of LGCs that will be valid by the end of the 2010 calendar year
- the introduction of the STC Clearing House under Part 2A of the Act. The STC Clearing House facilitates the exchange of STCs between buyers and sellers at the fixed price of $40 (excl.GST). Note this does not preclude agents and individuals trading STCs outside the STC Clearing House
- various updated eligibility requirements for solar water heater and small generation units.

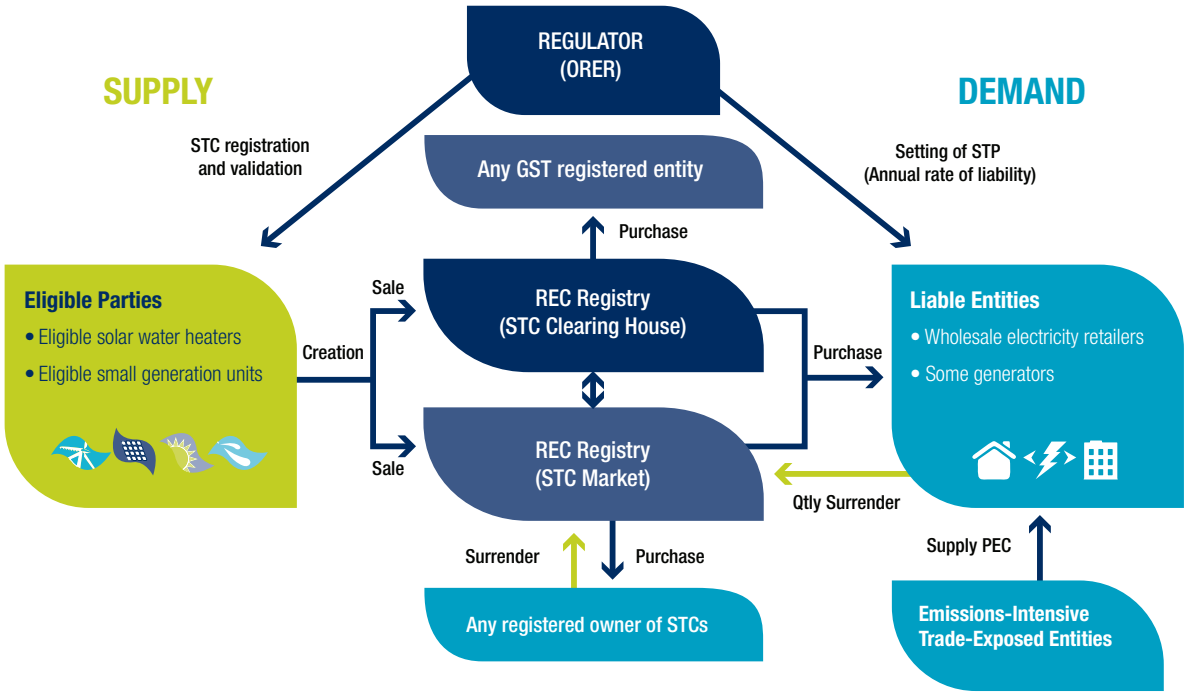
For more information regarding the scope of the legislative changes visit **www.orer.gov.au/legislation/index.html**

The following two diagrams demonstrate the two markets that will be administered by ORER from 1 January 2011 onwards as a result of the amendments.

Large-scale generation certificate (LGC) Market



Small-scale technology certificate (STC) Market



Amending the Regulations

The Regulations were established on 6 February 2001, and have subsequently been amended thirty-four times. As at 31 December 2010, nineteen amendments were conducted by the Office of the Renewable Energy Regulator while fifteen were conducted by the Department of Climate Change and Energy Efficiency (DCCEE).

Number of Regulation amendment rounds as at 31 December 2010

Year	Number of Regulation amendment rounds[1]		Total
	ORER[2]	DCCEE[3]	
2010	2	8	10
2009	0	4	4
2008 – 2001	17	3	20
Total	**19**	**15**	**34**

The Act is also support by Regulations referred to as transitional provisions. As such there are two transitional provision Regulations the:

- *Renewable Energy (Electricity) Amendment (Transitional Provisions) Regulations 2010* that were made by DCCEE to support the 2010 Amendment Act by DCCEE. These Regulations were amended once in 2010 by DCCEE; and
- *Renewable Energy (Electricity) Amendment (Transitional Provisions) Regulations 2009* that were made by DCCEE to support the 2009 Amendment Act.

New amendments expected each year support the 2010 Amendment Act and to set future renewable power percentages and small-scale technology percentages.

[1] For information on the amendment rounds www.orer.gov.au/legislation/regulation-amendments.html

[2] The *Legislative Instruments Act 2003* allows proposed Regulation amendments which are of a minor or machinery nature and that do not substantially alter existing arrangements to be exempt from a public consultation process.

[3] For information on these amendments contact the DCCEE Renewable Electricity Markets, Strategies and Coordination Division

REC Registry

The Act requires the Regulator to maintain five registers by electronic means. A REC Registry is made available for this purpose and also allows for the online creation, registration, transfer, voluntary surrender and surrender of RECs. The REC Registry has been in operation since 1 April 2001.

The REC Registry was re-launched on 5 June 2006 at **www.rec-registry.gov.au**, following the awarding of the contract to develop and run the REC Registry software through to 31 July 2010 to AusRegistry International Pty Ltd.

Changes that commenced on 1 January 2011 required two new registries be created and maintained. These are the:

- Register of Large-scale Generation Certificates
- Register of Small-scale Generation Certificates

The STC Clearing House Transfer List was also added to meet the requirements of the new legislation.

Advice to industry

ORER communicates regularly with stakeholders including circulating reminders of reporting and compliance requirements and to inform stakeholders of software upgrades to the REC Registry.

A wide range of information was provided through ORER's website, **www.orer.gov.au**, to advise participants of the framework and processes for participating in the RET, LRET and SRES. Information is also sent directly to all REC Registry users via email on a number of occasions.

Working with industry

ORER has dedicated substantial resources to working with stakeholders to improve their understanding of the legislation and Regulations, facilitate involvement in the scheme and provide support throughout the measure.

In 2010, ORER continued the positive interaction with the participants to ensure all parties were familiar with their obligations and entitlements under the legislation. ORER continued to provide telephone/email assistance and met face to face with many stakeholders and interested parties. This has included conducting a series of workshops for a range of stakeholder groups throughout 2010. The Regulator and other senior staff also presented at several public forums. This extensive contact and feedback enables ORER and participants to refine and develop systems to better align with the requirements of the Act.

Working with Government agencies

ORER maintains strong links with the Department of Climate Change and Energy Efficiency and the Department of Sustainability, Environment, Water, Population and Communities. ORER also liaises with other interested Commonwealth and State Government Departments and agencies. Some of these include NSW Greenhouse Gas Abatement Scheme, GreenPower, Queensland Gas Energy Certificate Scheme, and the Western Australian Sustainable Energy Development Office and the Essential Services Commission, responsible for the Victorian Renewable Energy Target scheme.

Working with the community

ORER provides information to a variety of stakeholders, ranging from individuals wishing to create RECs for SWHs, to special purpose interest groups and renewable energy power station proponents.

GLOSSARY

AAT
Administrative Appeals Tribunal

Accreditation
A process of determining if a power station is eligible to participate in the RET and contribute to the achievement of annual targets

AEAS
Annual Energy Acquisition Statement

Agents
Agents are registered persons that are able to create RECs on behalf of owners of eligible solar water heater or small generation unit installations

Baseline
During the accreditation process of a power station the Regulator determines the baseline by generally using the average amount of annual electricity generated from eligible renewable energy sources over the 1994, 1995 and 1996 years. Eligible power stations can only create RECs for electricity generated above the baseline.

Power stations which generated electricity for the first time after 1 January 1997 have a 1997 renewable power baseline of zero

Compliance period
The period, over which each annual target must be achieved, which, except the 2001 year, is a full calendar year

Deemed unit
A solar water heater or small generation unit installation that is eligible for REC creation. The eligibility requirements for deemed units are set out in the Regulations

EGR
Electricity Generation Return

EITE
Emissions-intensive trade-exposed

Eligibility
The eligibility to create RECs

Eligible Parties
Parties that are eligible to create RECs for renewable electricity generated by accredited power stations or for deemed units

kW
Kilowatt—one thousand watts

kWh
Kilowatt-hour—a measure of electricity generation or use. One thousand watt hours

LGC
Large-scale Generation Certificate

Liability
The liability to surrender RECs or pay a renewable energy shortfall charge

Liable entities
Entities that make wholesale acquisitions of electricity

LRET
Large-scale Renewable Energy Target

Minister
Minister for Climate Change and Energy Efficiency

MWh
Megawatt-hour—a measure of electricity generation or use. One thousand kilowatt-hours

ORER
Office of the Renewable Energy Regulator

PEC
Partial Exemption Certificate

Prescribed Persons
EITE entity eligible to apply for Partial Exemption Certificates

Nominated person
A nominated person is able to apply for accreditation of a power station under the Act. The nominated person can be the owner, operator or a stakeholder of the power station

REC

A renewable energy certificate is a commodity in the REC market. RECs are created by eligible parties and sold to liable entities via the REC Registry to meet their liability under the RET

RET

Renewable Energy Target, enacted through the Act and the Regulations

Registered person

A person registered under section 11 of the Act and listed in the register of registered persons. Only registered persons are able to create RECs

Regulator

The Renewable Energy Regulator appointed under section 143 of the Act to oversee the achievement of the RET

RESC

Renewable Energy Shortfall Charge

RESS

Renewable Energy Shortfall Statement

RPP

Renewable Power Percentage sets the rate of liability, achieves the legislated targets and must be published in the Regulations prior to 31 March of the year it applies to

SGU

A small generation unit is a device that generates electricity using either hydro, solar or wind energy and can be a deemed unit under the Regulations

SRES

Small-scale Renewable Energy Scheme

STC

Small-scale Technology Certificate

STC Clearing House

The STC Clearing House facilitates the exchange of small-scale technology certificates (STCs) between buyers and sellers at the fixed price of $40 (excl.GST).

SWH

A solar water heater is a device that heats water from solar energy and can only create RECs as a deemed unit under the Regulations. Solar water heaters that are eligible to create RECs are listed in the Register of Solar Water Heaters

SWH/SGUR

Solar Water Heater and Small Generation Unit Return

The Act

The *Renewable Energy (Electricity) Act 2000*

The Amendment Act

The *Renewable Energy (Electricity) Amendment Act 2009* or the *Renewable Energy (Electricity) Amendment Act 2010*

The Charge Acts

The *Renewable Energy (Electricity) Large-scale Generation Shortfall Charge Act 2000* or the *Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Act 2010*

The Regulations

The *Renewable Energy (Electricity) Regulations 2001*

Voluntary surrender

Section 28A allows a registered owner to offer RECs for surrender for any reason other than to comply with mandatory liabilities under section 44 or 95. A REC that is accepted for surrender under section 28A is permanently removed from the REC market

NOTES