



ENFORCEABLE UNDERTAKING

Renewable Energy (Electricity) Act 2000

Section 154Q

Undertaking to the Regulator given for the purposes of paragraph 154Q(1)(a) of the
Renewable Energy (Electricity) Act 2000

by

NICHOLLS AIR PTY LTD T/A NICHOLLS SOLAR

ACN: 103 613 216

Glossary

1. In this undertaking, unless the contrary intention appears, the following definitions apply:

"Act" means the *Renewable Energy (Electricity) Act 2000*.

"Nicholls Solar" means Nicholls Air Pty Ltd trading as Nicholls Solar

"CEC" means the Clean Energy Council

"ORER" means the Office of the Renewable Energy Regulator.

"REC" means Renewable Energy Certificate as defined in section 5 of the Act.

"REC Registry" means internet based REC Registry where all RECs are created, traded and surrendered.

"Regulations" means the *Renewable Energy (Electricity) Act 2001*.

"Regulator" means the Renewable Energy Regulator under section 142 of the Act.

"RECs" means Renewable Energy Certificates.

"small generation unit" has the same meaning as it has under the Act.

Person giving undertaking

2. This undertaking is given to the Regulator by Nicholls Solar for the purposes of paragraph 154Q(1)(a) of the Act.



Background

3. Nicholls Air Pty Ltd is a duly incorporated company engaged in trade or commerce in Australia, which trades under the registered business name of Nicholls Solar.
4. Nicholls Air Pty Ltd trading as Nicholls Solar is an Australian owned company that provides renewable energy solutions and increased energy efficiency to the Australian community. Nicholls Solar is a registered person and agent under the Act, which allows Nicholls Solar to have RECs assigned to them on behalf of owners of SGU systems and allows them to create RECs for these SGU installations on the REC Registry. Nicholls Solar is an independent trader of RECs in Australia.
5. Nicholls Solar is a registered person under Part 2, Division 2 of the Act.

The creation of RECs

6. Under the Act, registered persons may create RECs in respect of energy which has been generated from renewable energy sources specified in the Act and Regulations.
7. Under Part 2, Division 4, Subdivision BA of the Act, a registered person can create RECs in respect of small generation units.
8. The Act and the Regulations set out the conditions which must be satisfied before RECs can be created in respect of a small generation unit.
9. The Act and the Regulations sets out the circumstances in which certificates may be created for a small generation unit in section 23B of the Act and regulation 20AC of the Regulations.
 - The small generation unit was designed and installed by a person or persons:
 - If the unit is a stand-alone power system — accredited for stand-alone power systems under the Australian Business Council for Sustainable Energy accreditation scheme (the **ABCSE accreditation scheme**) or the Clean Energy Council accreditation scheme (the **CEC accreditation scheme**); and
 - If the unit is a grid-connected power system — accredited for grid-connected power systems under the ABCSE accreditation scheme or the CEC accreditation scheme; and
10. If these circumstances are not present in respect of a small generation unit, the person who is entitled to create RECs in respect of the unit is not entitled to create the number of RECs due to the system not being installed by a person accredited under the CEC accreditation scheme.



Improper creation of RECs by Nicholls Solar

11. Between 25 May 2009 and 21 October 2010, Nicholls Solar created RECs in respect of the installation of seven hundred and five (705) small generation units. The installations were in Queensland, New South Wales and the Australian Capital Territory. Details collected from the REC Registry show multiple installs in multiple states on the same day.
12. The ORER has conducted an investigation into the creation of those RECs. The ORER has concluded its investigation and evidence exists that establishes that for a number of installations the work was not carried out or supervised by an accredited CEC installer. Nicholls Solar were required to provide evidence to the Regulator to confirm that all installations between 25 May 2009 and 21 October 2010 were installed or supervised by a CEC accredited installer. Nicholls Solar has been unable to provide this evidence and therefore may have created RECs where it was not entitled to do so because the system may not have been installed by a person accredited under the CEC accreditation scheme.
13. The improper creation of RECs is an offence under section 24 of the *Renewable Energy (Electricity) Act 2000* which carries both criminal and civil penalties.

Undertaking

14. Under subparagraph 154Q(1)(a) of the Act, the Regulator may accept a written undertaking given by a person that the person will, in order to comply with this Act, the regulations or the associated provisions, take specified action; namely
15. Nicholls Solar hereby undertakes to, on or before 28 April 2011, return to each installation site identified by ORER and have an accredited Clean Energy Council installer/supervisor inspect the said solar photovoltaic system and sign a statutory declaration to that effect, and to provide a separate document including the signature of the system owner / resident of the said address location confirming that the inspection has occurred.

Commencement of Undertaking

16. This Undertaking comes into effect when:
 - a. the Undertaking is executed by Nicholls Solar; and
 - b. the Regulator accepts the undertaking so executed.

Acknowledgements

17. Nicholls Solar acknowledges:
 - a. the Regulator will make this undertaking publicly available, including by publishing it on the Regulator's website;



Australian Government
Office of the Renewable Energy Regulator

- b. the Regulator and officers of the ORER will, from time to time, make public reference to this undertaking and the circumstances giving rise to this undertaking;
- c. this undertaking in no way derogates from the rights and remedies available to any other person arising from any conduct of Nicholls Solar.

Executed by

Nicholls Air Pty Ltd ACN 103 613 216 trading as Nicholls Solar by its authorised officers pursuant to s 127(1) of the *Corporations Act 2001*

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Director

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Secretary/Director

This 16th day of February 2011

ACCEPTED BY THE REGULATOR PURSUANT TO PARAGRAPH 154Q(1)(d) OF THE RENEWABLE ENERGY (ELECTRICITY) ACT 2000.

Andrew Livingston

Renewable Energy Regulator under the Act

This 18th day of February 2011