

Baker & McKenzie Climate Change Legislation Update

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Making the most of energy efficiency – an introduction to the NSW Energy Savings Scheme

If you undertake energy-efficient retrofits of properties in NSW, or carry out other energy-saving activities, as well as saving on energy bills you may be able to earn money by selling energy savings certificates. Recent amendments to the Electricity Supply Act 1995 (NSW) establish the NSW Energy Savings Scheme, commencing on 1 July 2009. Under this scheme, certain energy-saving activities can generate valuable tradeable certificates, worth up to approximately \$23 per tonne of greenhouse gas emissions saved. These certificates can be sold to energy companies, which need them for compliance with the scheme.

Don't miss out – see below for further information on potential opportunities under the NSW Energy Savings Scheme.

What is an Energy Savings Certificate?

The NSW Energy Savings Scheme (*scheme*) provides for Energy Savings Certificates (*certificates*) to be created when specified types of energy savings occur. Each certificate is equivalent to a saving of one tonne of greenhouse gas emissions, from reduced electricity use. These certificates are registered on a dedicated register maintained by the scheme administrator. Certificates will initially be owned by the entity that carried out the energy saving activity, but can be freely transferred or sold to other entities. The register will record the ownership of certificates and any transfers of certificates.

How can I earn certificates?

Accredited entities can earn certificates for various activities in NSW that reduce electricity consumption (and hence greenhouse gas emissions). These activities include:

- modifying equipment, or changing how equipment is used, so as to reduce its electricity use;
- replacing equipment with new equipment that consumes less electricity;
- installing new equipment that consumes less electricity than other equipment of the same type – an example might be choosing a more efficient HVAC system when completing a new property, in place of the “standard” (and less efficient) system; or
- any other activity that reduces electricity consumption without reducing production or service levels – for example, closing down a property may save energy but will not allow you to claim any certificates.

A sample energy savings activity might be as follows: A hotel operator decides to renovate a hotel located in the Sydney CBD area. During the renovation, the hotel operator replaces the existing lights in the hotel lobby and corridors with more efficient light bulbs and purchases new highly efficient refrigerators for the kitchen and guest rooms.

When can these activities earn certificates?

There are two dates to bear in mind here. The energy savings activity, e.g. the purchase of refrigerators in the course of the renovation, must have started after 1 July 2008. But only energy savings resulting from that activity that occur after 1 July 2009 can generate certificates. The new fridges will save energy from the date they are installed, but only the energy savings after 1 July this year will count under the scheme.

One benefit is that with ongoing energy savings, such as those from the use of more efficient lighting or refrigerators, all expected future energy savings can be claimed upfront, when the efficient products are first installed. This will provide a valuable 'lump sum' of certificates that can be used to offset the cost of installing the products, rather than a drip feed of certificates over the life of the products.

Energy savings cannot be claimed, for the purposes of certificates, more than six months after the end of the year in which the energy savings took place. For example, the hotel operator could not, in January 2011, claim certificates in respect of energy savings in the financial year 2009-2010.

Is there a catch?

No, but there are some criteria to satisfy before certificates can be generated.

Using the example above, the hotel operator will only be eligible to earn certificates if:

- the hotel operator is accredited under the scheme as the "Energy Saver" (in some circumstances it may be easier if the contractor conducting the retrofit works is accredited as the Energy Saver, and the hotel operator merely reflects the value of the certificates in the price for the works);
- the retrofitting represents an energy saving compared to a baseline (e.g. the hotel's energy use before the retrofit) – the detailed rules setting out how to calculate baselines should be finalised soon;
- the energy savings are beyond any mandatory requirements – so if a law or a condition of a licence mandated certain types of lighting, using that lighting would not allow the hotel operator to earn certificates;
- the energy saving is not claimed any other scheme (e.g. the NSW Greenhouse Gas Reduction Scheme); and
- the energy saving is sufficiently documented.

Who will buy the certificates?

Certificates can be sold to entities that have a liability under the scheme – primarily electricity retailers. These companies will be required to surrender a certain number of certificates each year in order to comply with their energy savings targets, and will therefore be looking to purchase certificates, or generate certificates themselves. This will create a market for certificates.

Certificates can be sold directly to a retailer under a sale and purchase contract, or can be sold through brokers. Several brokers for "green certificates" are now operating in Australia.

How much could I earn for the certificates?

As the market for certificates is very new, little pricing information is currently available. However, the penalty payable by electricity retailers that do not comply with the scheme may indicate the likely upper boundary of the market price (as it does with the Mandatory Renewable Energy Target scheme). For 2009, the penalty price is \$23.03 for each tonne of emissions by which the retailer is in shortfall of its target. This penalty rate may change with the CPI. In addition, the retailers' energy savings targets will increase each year, increasing the demand for certificates.

As an example of the number of certificates that may be generated from a typical energy efficiency project under the scheme, the Sustainable Energy Development Authority estimated that a project that involved installing energy efficient lighting at a chain of five discount stores would earn 15,000 certificates, assuming a

10 year period of operation.

This may not sound like a large amount, but the revenue from certificates can assist in significantly reducing the time to achieve a return on investment in energy efficiency. Remember that this revenue is in addition to ongoing reductions in energy bills as a result of the energy saving activity.

What about energy savings outside NSW?

Currently, only energy saving activities within NSW are eligible to earn certificates under the scheme. Energy efficiency schemes also operate in Victoria and South Australia, but these schemes apply only to energy efficiency activities in the residential sector. The Victorian Energy Efficiency Target scheme may however be expanded to commercial operations from 2012.

How can I find out more information?

General information is available on the website of the NSW Department of Water and Energy, at http://www.dwe.nsw.gov.au/energy/sustain_renew_neet.shtml.

For tailored advice on how your company may participate in, or be affected by, the new energy savings scheme, please contact:



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