



Australian Capital Territory

Electricity Feed-in (Renewable Energy Premium) Act 2008

A2008-21

Republication No 3

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 July 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 12 July 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Electricity Feed-in (Renewable Energy Premium) Act 2008

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Australian Capital Territory

Electricity Feed-in (Renewable Energy Premium) Act 2008

An Act about the supply of electricity from solar and other renewable energy sources to electricity distributors, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Electricity Feed-in (Renewable Energy Premium) Act 2008*.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*electricity distributor*—see the *Utilities Act 2000*, dictionary.' means that the term 'electricity distributor' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

5 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Part 1A Objects and important concepts

5A Objects of Act

The objects of this Act are to—

- (a) promote the generation of electricity from renewable energy sources; and
- (b) reduce the ACT's contribution to human-induced climate change; and
- (c) diversify the ACT energy supply; and
- (d) reduce the ACT's vulnerability to long-term price volatility in relation to fossil fuels.

5B Meaning of *renewable energy generator* and *renewable energy source*

- (1) In this Act:

renewable energy generator means an energy generator that generates electricity from a renewable energy source, and includes—

- (a) a micro renewable energy generator; and
- (b) a medium renewable energy generator.

renewable energy source means any of the following:

- (a) solar;
- (b) wind;
- (c) any other source determined by the Minister.

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

5C Meaning of *capacity*

(1) In this Act:

capacity, of a renewable energy generator, means—

- (a) if the generator is a solar photovoltaic generator—the rated power output of the panels of the generator; or
- (b) if the Minister determines a method for measuring the capacity of a generator under subsection (2)—the capacity measured by the determined method.

(2) The Minister may determine the method for measuring the capacity of renewable energy generators.

Note Power to make a statutory instrument (including a regulation) includes power to make different provision for different categories (see Legislation Act, s 48).

(3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

5D Meaning of *medium renewable energy generator* and *micro renewable energy generator*

In this Act:

medium renewable energy generator means a renewable energy generator that has a total capacity more than 30kW but not more than 200kW.

micro renewable energy generator means a renewable energy generator that has a total capacity not more than 30kW.

5E Meaning of *compliant*

- (1) For this Act, a renewable energy generator is *compliant* if—
- (a) the generator is installed on premises in the ACT; and
 - (b) when connected to the electricity distributor's network, it complies with the service and installation rules; and
 - (c) the total capacity of the generator, or the total capacity of all renewable energy generators installed on the premises, is not more than—
 - (i) 200kW; or
 - (ii) if the Minister determines another capacity under subsection (2)—the applicable determined capacity; and
 - (d) if the generator is a micro or medium renewable energy generator—the generator is connected to the electricity distributor's network before the total capacity of all micro and medium renewable energy generators connected to the network reaches—
 - (i) 30MW; or
 - (ii) if the Minister determines another capacity under subsection (3)—the determined capacity.
- (2) The Minister may determine a total capacity for the following:
- (a) micro renewable energy generators installed on premises;
 - (b) medium renewable energy generators installed on premises;
 - (c) all renewable energy generators installed on premises.
- (3) The Minister may determine the total capacity for all micro and medium renewable energy generators connected to the electricity distributor's network.

- (4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (5) In this section:

service and installation rules means the service and installation rules for connection to the electricity distribution network, as in force from time to time, made under a technical code, as in force from time to time, made under the *Utilities Act 2000*.

Note Technical codes made under the *Utilities Act 2000* are accessible at www.icrc.act.gov.au. The service and installation rules are accessible at www.actewagl.com.au.

5F Meaning of *eligible entity*

- (1) In this Act:

eligible entity—

(a) means—

- (i) if an incorporated association owns the premises on which a compliant renewable energy generator is installed—the incorporated association; or
- (ii) if a cooperative owns the premises on which a compliant renewable energy generator is installed—the cooperative; or
- (iii) if a person owns commercial or retail premises on which a compliant renewable energy generator is installed—the person; or
- (iv) if a person (the *lessee*) leases premises, or a part of premises, to install or operate a compliant renewable energy generator—the lessee; or
- (v) in any other case—the occupier of premises on which a compliant renewable energy generator is installed; but

- (b) does not include—
- (i) a territory agency; or
 - (ii) a territory-owned corporation; or
 - (iii) the Commonwealth or a Commonwealth authority; or
 - (iv) an entity determined by the Minister.

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) In this section:

commercial premises—see the *Leases (Commercial and Retail) Act 2001*, section 7 (1).

Commonwealth authority means any of the following (other than an educational institution):

- (a) a corporation established for a public purpose under a Commonwealth Act;
- (b) a company in which a controlling interest is held by any 1 of the following, or by 2 or more of the following together:
 - (i) the Commonwealth;
 - (ii) a corporation mentioned in paragraph (a);
 - (iii) an entity mentioned in subparagraph (i) or (ii).

cooperative—see the *Cooperatives Act 2002*, dictionary.

educational institution means—

- (a) a government school or school-related institution established under the *Education Act 2004*, section 20; or
- (b) a higher education provider; or
- (c) a university.

higher education provider—see the *Training and Tertiary Education Act 2003*, dictionary.

incorporated association means an association incorporated under the *Associations Incorporation Act 1991* or a law of another jurisdiction corresponding, or substantially corresponding, to that Act.

retail premises—see the *Leases (Commercial and Retail) Act 2001*, section 7 (2).

territory agency means any of the following (other than an educational institution):

- (a) the Territory;
- (b) a territory instrumentality, and any other corporation established for a public purpose under a territory law;
- (c) a company in which a controlling interest is held by any 1 of the following, or by 2 or more of the following together:
 - (i) the Territory;
 - (ii) a Minister;
 - (iii) a corporation mentioned in paragraph (b);
 - (iv) an entity mentioned in subparagraphs (i) to (iii).

Part 2 Renewable energy—supply to electricity network

6 Feed-in from renewable energy generators to electricity network

- (1) This section applies to—
 - (a) an electricity distributor licensed to distribute electricity through an electricity network; and
 - (b) an electricity supplier licensed to supply electricity from the network.
- (2) It is a condition of the electricity distributor's licence that the distributor must, on application by an eligible entity—
 - (a) connect a renewable energy generator to the distributor's network to enable electricity generated by the generator to be supplied to the network; and
 - (b) reimburse the utility that is the electricity supplier to the premises the difference between—
 - (i) the amount payable under subsection (3) for electricity generated by the generator to be supplied to the network; and
 - (ii) the normal cost of that electricity; and
 - (c) pass on to the eligible entity the additional metering costs in relation to electricity generated by the generator.
- (3) It is a condition of the electricity supplier's licence that the supplier must, on application by an eligible entity, pay the eligible entity, in accordance with section 8, for the total amount of electricity generated by the renewable energy generator on or after the day the application is made.

6A What is the *normal cost of electricity*?

(1) The Minister may determine an amount to be the *normal cost of electricity* in relation to a period.

(2) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(3) The Minister may make guidelines for a determination under this section.

(4) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

7 Utility service

Each of the following is a utility service for the *Utilities Act 2000*:

(a) the action required by a distributor under section 6 (2);

(b) the action required by a supplier under section 6 (3).

8 Payment for electricity from renewable energy generators

(1) For section 6 (3), payment must be at the following rate:

(a) for electricity generated by a micro renewable energy generator—

(i) if an eligible entity entered into a contract for the installation of the generator before 1 June 2011—

(A) 100% of the premium rate; or

(B) if a lower percentage is determined under section 9 for this paragraph—that percentage of the premium rate; or

- (ii) if an eligible entity entered into a contract for the installation of the generator on or after 1 June 2011—
 - (A) 66% of the premium rate; or
 - (B) if a lower percentage is determined under section 9 for this paragraph—that percentage of the premium rate;
 - (b) for electricity generated by a medium renewable energy generator—
 - (i) if an eligible entity entered into a contract for the installation of the generator before the relevant date—
 - (A) 75% of the premium rate; or
 - (B) if a lower percentage is determined under section 9 for this paragraph—that percentage of the premium rate; or
 - (ii) if an eligible entity entered into a contract for the installation of the generator on or after the relevant date—
 - (A) 66% of the premium rate; or
 - (B) if a lower percentage is determined under section 9 for this paragraph—that percentage of the premium rate.
- (2) Payment must be made to the eligible entity quarterly in arrears for the total amount of electricity generated by the generator.
- (3) In this section:

relevant date means the day the *Electricity Feed-in (Renewable Energy Premium) Amendment Act 2011 (No 2)* commenced.

8A Recovery of cost of renewable energy premium

- (1) This section applies if a supplier of electricity services imposes a recovery of costs on electricity consumers to recover the cost of a renewable energy premium payable to an eligible entity under this Act.
- (2) The recovery of costs must be imposed on an electricity consumer in a way that is in proportion to the amount of electricity used by the consumer.

9 Determination of percentages

- (1) The Minister may determine percentages for section 8 (Payment for electricity from renewable energy generators).
- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Part 3 Renewable energy premium— determination of rate

10 Determination of premium rate

- (1) For each financial year, the Minister must, not later than 3 months before the financial year, determine the premium rate for amounts payable by an electricity supplier under section 6 (Feed-in from renewable energy generators to electricity network) during the year.

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) In making a determination, the Minister—

- (a) must seek the advice of the Independent Competition and Regulatory Commission to assist the Minister to determine the premium rate; and

- (b) must give priority to the following:

- (i) the desirability of costs under this Act impacting equitably on all electricity users;
- (ii) the need to encourage the generation of electricity from renewable sources;
- (iii) the need to reduce emissions from greenhouse gases;
- (iv) the need to reduce the likely effects of climate change;
- (v) the desirability of eligible entities being able to recoup investment on renewable energy generators within a reasonable time; and

- (c) must have regard to the following:

- (i) the amounts payable under this Act by an electricity distributor;

- (ii) the amounts payable under this Act by an electricity supplier;
 - (iii) any additional metering costs passed on to an eligible entity because of section 6 (2) (c);
 - (iv) any advice received from the Independent Competition and Regulatory Commission in response to a request under paragraph (a);
 - (v) anything else the Minister considers relevant.
- (4) If the Minister receives any advice requested under subsection (3) (a), the Minister must—
- (a) present a copy of the advice to the Legislative Assembly within 3 sitting days after receiving the advice; and
 - (b) give a copy of the advice to each member of the Legislative Assembly—
 - (i) at least 14 days before the Minister makes the determination; but
 - (ii) within 30 days after receiving the advice.

11 Premium rate—20 years

- (1) The premium rate for the financial year in which a renewable energy generator is connected to a distributor's network applies, if the generator remains connected to the network, in relation to electricity generated by the generator during the 20 years after the date of the connection.
- (2) For subsection (1), a generator is taken to remain connected to the network—
 - (a) during any temporary interruption to the connection for repair or maintenance work or relocation of the connection or generator at the same premises; or

- (b) if the generator is transferred with the premises to another person who is an eligible entity in relation to the premises; or
- (c) if the generator is transferred to other premises in relation to which the eligible entity is also an eligible entity.

Part 3A Reporting

11A Report by Minister

The Minister must, within 2 weeks after the end of each month, publish on an appropriate government website a report setting out the following:

- (a) the number of applications for the connection of renewable energy generators to an electricity distributor's network received by the distributor during the month;
- (b) the number of renewable energy generators connected to an electricity distributor's network by the distributor during the month;
- (c) the total number of renewable energy generators connected to an electricity distributor's network;
- (d) the total capacity of all micro and medium renewable energy generators connected to an electricity distributor's network.

11B Electricity distributors to give information to Minister

An electricity distributor must give the Minister the information the Minister requires to prepare the report mentioned in section 11A.

Part 4 Miscellaneous

12 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may make provision in relation to notices to be placed at premises where a renewable energy generator is located.
- (3) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

13 Review of operation of Act

- (1) The Minister must review the operation of this Act at least once every 5 years (a *review period*) after the day this Act commences.
- (2) The review must include a consideration of the impact of costs under this Act on electricity users and, in particular, whether the impacts are equitable.
- (3) The Minister must present a copy of the report of the review for a review period to the Legislative Assembly not later than 6 months after the end of the review period.

Dictionary

(see s 4)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- disallowable instrument (see s 9)
- Executive
- Minister (see s 162)
- quarter
- regulation
- under.

additional metering costs, in relation to electricity generated by a renewable energy generator connected to an electricity network, means metering costs associated with the electricity that are in addition to metering costs for which the distributor is responsible under the rules under the National Electricity (ACT) Law.

capacity, of a renewable energy generator—see section 5C.

compliant—see section 5E.

customer—see the *Utilities Act 2000*, section 17.

electricity distributor—see the *Utilities Act 2000*, dictionary.

electricity network—see the *Utilities Act 2000*, section 7.

electricity supplier—see the *Utilities Act 2000*, dictionary.

medium renewable energy generator—see section 5D.

micro renewable energy generator—see section 5D.

National Electricity (ACT) Law means the provisions applying in the ACT because of the *Electricity (National Scheme) Act 1997*, section 5.

normal cost of electricity—see section 6A.

occupier, for premises, means the retail electricity customer for the premises.

premium rate, for electricity supplied from a renewable energy generator to an electricity distributor's network, means the premium rate determined under section 10 for the first financial year in which both—

- (a) the generator is connected to the network to enable electricity generated by the generator to be supplied to the network; and
- (b) the eligible entity for the generator makes the application for payment mentioned in section 6 (3).

renewable energy generator—see section 5B.

renewable energy source—see section 5B.

utility—see the *Utilities Act 2000*, dictionary.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Electricity Feed-in (Renewable Energy Premium) Act 2008 A2008-21

notified LR 9 July 2008

s 1, s 2 commenced 9 July 2008 (LA s 75 (1))

remainder commenced 1 March 2009 (s 2 and CN2009-5)

as amended by

Electricity Feed-in (Renewable Energy Premium) Amendment Act 2009 A2009-8

notified LR 2 March 2009

s 1, s 2 taken to have commenced 1 March 2009 (LA s 75 (2))

remainder taken to have commenced 1 March 2009 (s 2 and see A2008-21)

Electricity Feed-in (Renewable Energy Premium) Amendment Act 2011 A2011-6

notified LR 24 February 2011

s 1, s 2 commenced 24 February 2011 (LA s 75 (1))

remainder commenced 7 March 2011 (s 2 and CN2011-3)

Electricity Feed-in (Renewable Energy Premium) Amendment Act 2011 (No 2) A2011-25

notified LR 11 July 2011

s 1, s 2 commenced 11 July 2011 (LA s 75 (1))

remainder commenced 12 July 2011 (s 2)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Objects of Act

s 3 om A2009-8 s 4

Objects and important concepts

pt 1A hdg ins A2009-8 s 5

Objects of Act

s 5A ins A2009-8 s 5

Endnotes

4 Amendment history

Meaning of *renewable energy generator* and *renewable energy source*

s 5B ins A2009-8 s 5
sub A2011-6 s 4

Meaning of *capacity*

s 5C ins A2009-8 s 5
sub A2011-6 s 4

Meaning of *medium renewable energy generator* and *micro renewable energy generator*

s 5D ins A2009-8 s 5
sub A2011-6 s 4

Meaning of *compliant*

s 5E ins A2011-6 s 4
am A2011-25 s 4

Meaning of *eligible entity*

s 5F ins A2011-6 s 4

Feed-in from renewable energy generators to electricity network

s 6 am A2009-8 ss 6-8; ss renum R1 (RI) LA; A2011-6 s 5

What is the *normal cost of electricity*?

s 6A ins A2009-8 s 9

Payment for electricity from renewable energy generators

s 8 sub A2009-8 s 10
am A2011-6 ss 6-8; A2011-25 s 5, s 6

Recovery of cost of renewable energy premium

s 8A ins A2009-8 s 11
am A2011-6 s 9

Determination of premium rate

s 10 am A2009-8 ss 12-15; pars renum R1 (RI) LA; A2011-6
ss 10-12; ss renum R2 LA

Premium rate—20 years

s 11 am A2009-8 s 16; A2011-6 s 13

Reporting

pt 3A hdg ins A2011-25 s 7

Report by Minister

s 11A ins A2011-25 s 7

Electricity distributors to give information to Minister

s 11B ins A2011-25 s 7

Dictionary

dict

am A2009-8 s 17
 def **capacity** ins A2011-6 s 14
 def **compliant** ins A2011-6 s 14
 def **medium renewable energy generator** ins A2011-6 s 14
 def **micro renewable energy generator** ins A2011-6 s 14
 def **National Electricity (ACT) Law** ins A2009-8 s 18
 def **National Electricity (ACT) Regulations** ins A2009-8 s 18
 om A2011-6 s 15
 def **NEL compliant** ins A2009-8 s 18
 om A2011-6 s 15
 def **normal cost of electricity** ins A2009-8 s 18
 def **premium rate** sub A2009-8 s 19
 am A2011-6 s 16
 def **renewable energy generator** ins A2009-8 s 19
 sub A2011-6 s 17
 def **renewable energy source** sub A2009-8 s 19
 sub A2011-6 s 17
 def **transition franchise tariff retail price** om A2011-6 s 18

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Mar 2009	1 Mar 2009 6 Mar 2011	not amended	new Act
R1 (RI) 2 Mar 2009	1 Mar 2009– 6 Mar 2011	A2009-8	reissue for retrospective amendments by A2009-8
R2 7 Mar 2011	7 Mar 2011– 11 July 2011	A2011-6	amendments by A2011-6

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