

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Climate Change and Sustainability)

Electricity Feed-in (Large-scale Renewable Energy Generation) Amendment Bill 2017

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Electricity Feed-in (Large-scale Renewable Energy Generation) Amendment Bill 2017

A Bill for

An Act to amend the *Electricity Feed-in (Large-scale Renewable Energy Generation) Act 2011* and the *Electricity Feed-in (Large-scale Renewable Energy Generation) Regulation 2017*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2017-48

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Electricity Feed-in (Large-scale Renewable Energy*
4 *Generation) Amendment Act 2017*.

5 **2 Commencement**

6 (1) Section 4 and part 3 are taken to have commenced on
7 14 September 2017.

8 (2) The remaining provisions commence on the day after this Act's
9 notification day.

10 **3 Legislation amended**

11 This Act amends the *Electricity Feed-in (Large-scale Renewable*
12 *Energy Generation) Act 2011* and the *Electricity Feed-in*
13 *(Large-scale Renewable Energy Generation) Regulation 2017*.

-
- 1 **Part 2** **Electricity Feed-in (Large-scale**
2 **Renewable Energy Generation)**
3 **Act 2011**
- 4 **4** **FiT entitlement—surrender**
5 **New section 14 (4)**
- 6 *insert*
- 7 (4) In fixing the day and time for the surrender of a FiT entitlement to
8 take effect, the Minister must consider any matters prescribed by
9 regulation.
- 10 **5** **New division 4.1 heading**
- 11 *before section 17, insert*
- 12 **Division 4.1** **Calculation and payment of FiT**
13 **support payments**
- 14 **6** **New division 4.2**
- 15 *after section 20, insert*
- 16 **Division 4.2** **Passing on reasonable costs of FiT**
17 **support payments**
- 18 **20A** **ACT electricity distributor may pass on reasonable costs**
- 19 (1) The ACT electricity distributor may pass on to electricity retailers
20 the distributor's costs in meeting its obligations under this Act—
- 21 (a) to make FiT support payments; and
- 22 (b) to administer the FiT support payments scheme, including the
23 cost of complying with sections 21 and 21A.

1 (2) In a financial year, the costs the ACT electricity distributor may
2 pass on to electricity retailers under subsection (1) must not exceed
3 the reasonable costs determined under section 20C for that financial
4 year.

5 *Note* Over or under recovery of costs by the ACT electricity distributor must
6 be considered by the Minister in subsequent financial year
7 determinations of reasonable costs—see s 20C (2) (a) (ii).

8 (3) In this section:

9 *electricity retailer* means a NERL retailer or a NERL exempt seller
10 to whom the ACT electricity distributor supplies electricity.

11 *NERL exempt seller*—see the *Utilities Act 2000*, section 75A.

12 *NERL retailer*—see the *Utilities Act 2000*, section 75.

13 **20B Reasonable costs—application for determination**

14 (1) The ACT electricity distributor must, in each financial year (the
15 *current financial year*) apply to the Minister for a determination of
16 the reasonable costs (a *reasonable costs determination*) for the next
17 financial year (the *upcoming financial year*) of the distributor
18 meeting its obligations under this Act—

19 (a) to make FiT support payments; and

20 (b) to administer the FiT support payments scheme, including the
21 cost of complying with sections 21 and 21A.

22 (2) The application must be made no later than 6 months after the
23 beginning of the current financial year.

24 (3) The application must include—

25 (a) in relation to the financial year immediately preceding the
26 current financial year—

27 (i) the total amount of FiT support payments paid by the
28 ACT electricity distributor; and

- 1 (ii) the costs incurred by the ACT electricity distributor in
2 administering the FiT support payments, including the
3 cost of complying with sections 21 and 21A; and
- 4 (iii) the total amount of costs mentioned in section 20A (1)
5 that the ACT electricity distributor recovered from
6 electricity retailers; and
- 7 (b) in relation to the upcoming financial year and the following
8 4 financial years—
- 9 (i) the total amount of FiT support payments that the ACT
10 electricity distributor estimates it will pay; and
- 11 (ii) the estimated cost to the ACT electricity distributor in
12 administering the FiT support payments, including the
13 cost of complying with sections 21 and 21A; and
- 14 (c) if the Minister has determined a methodology under
15 section 20D (the *determined methodology*)—the manner in
16 which the ACT electricity distributor has applied the
17 determined methodology in estimating the costs under
18 paragraph (b) (i); and
- 19 (d) if the Minister has not determined a methodology under
20 section 20D—the methodology applied by the ACT electricity
21 distributor in estimating the costs under paragraph (b) (i).
- 22 (4) If the application does not contain sufficient information for the
23 Minister to make a decision the Minister may, within 1 month of
24 receiving the application, require the ACT electricity distributor to
25 provide further information (the *required information*).
- 26 (5) The ACT electricity distributor must provide the required
27 information to the Minister within 10 working days after the day the
28 Minister requests the information.

- 1 **20C Reasonable costs—determination**
- 2 (1) The Minister must make a reasonable costs determination for an
- 3 upcoming financial year no later than 2 months after the day the
- 4 ACT electricity distributor applies to the Minister under
- 5 section 20B (1).
- 6 (2) In making a reasonable costs determination, the Minister must
- 7 consider—
- 8 (a) the information provided by the ACT electricity distributor
- 9 under section 20B, including—
- 10 (i) the application of the methodology mentioned in
- 11 section 20B (3) (c); and
- 12 (ii) the difference between the amounts mentioned in
- 13 section 20B (3) (a) (i) and (ii) and the amount mentioned
- 14 in section 20B (3) (a) (iii); and
- 15 (b) the need to ensure that neither ACT electricity consumers nor
- 16 the ACT electricity distributor are unreasonably financially
- 17 disadvantaged by the determination.
- 18 (3) The Minister may determine the reasonable costs to be—
- 19 (a) the amounts mentioned in section 20B (3) (b) set out in the
- 20 ACT electricity distributor’s application; or
- 21 (b) another amount.
- 22 (4) If the Minister does not make a reasonable costs determination
- 23 within the required time under subsection (1), the reasonable costs
- 24 are taken to be the amounts mentioned in section 20B (3) (b) set out
- 25 in the ACT electricity distributor’s application.
- 26 (5) A determination under subsection (1) is a notifiable instrument.
- 27 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

20D Reasonable costs—methodology

- (1) The Minister may determine the methodology to be applied by the ACT electricity distributor in estimating the cost of the FiT support payment.
- (2) The Minister must consult the ACT electricity distributor before making a determination under subsection (1).
- (3) A determination under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

7 New section 21A

in part 5, insert

21A Audit of information given to Minister

- (1) The Minister may require the ACT electricity distributor to commission an audit of the information provided by the distributor in the report under section 21.
- (2) The audit must be—
 - (a) paid for by the ACT electricity distributor; and
 - (b) undertaken by—
 - (i) an auditor appointed by the Minister; or
 - (ii) if the Minister decides not to appoint an auditor—an auditor that is independent of the distributor; and
 - (c) undertaken in accordance with procedures determined by the Minister following consultation with the ACT electricity distributor.
- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- 1 (4) The Minister must not require the ACT electricity distributor to
2 commission more than 1 audit in any 12 month period.
- 3 (5) The ACT electricity distributor commits an offence if—
- 4 (a) the distributor gives the Minister information in a report under
5 section 21; and
- 6 (b) the Minister requires an audit of the information; and
- 7 (c) the distributor engages in conduct; and
- 8 (d) as a result of the conduct, the distributor fails to commission
9 the required audit.
- 10 Maximum penalty: 400 penalty units.

11 **8 New part 5A**

12 *insert*

13 **Part 5A Notification and review of**
14 **decisions**

15 **21B Meaning of reviewable decision—pt 5A**

16 In this part:

17 *reviewable decision* means a reasonable costs determination under
18 section 20C.

19 **21C Reviewable decision notice**

20 If the Minister makes a reviewable decision, the Minister must give
21 a reviewable decision notice to the ACT electricity distributor.

22 *Note* The requirements for reviewable decision notices are prescribed under
23 the *ACT Civil and Administrative Tribunal Act 2008*.

1 **21D Applications for review**

2 The ACT electricity distributor may apply to the ACAT for review
3 of a reviewable decision.

4 *Note* If a form is approved under the *ACT Civil and Administrative Tribunal*
5 *Act 2008* for the application, the form must be used.

6 **9 Dictionary, note 2**

7 *insert*

- 8 • ACAT
9 • penalty unit

10 **10 Dictionary, new definition of *reasonable costs***
11 ***determination***

12 *insert*

13 ***reasonable costs determination***—see section 20B (1).

1 **Part 3** Electricity Feed-in (Large-scale
2 Renewable Energy Generation)
3 Regulation 2017

4 **11** New section 3

5 *insert*

6 **3** When surrender notice takes effect—matters to
7 consider—Act, s 14 (4)

8 The following matters are prescribed:

- 9 (a) the objectives of the Act;
- 10 (b) any deed of FiT entitlement that has been executed;
- 11 (c) how long the Territory is likely to take to obtain another source
12 of electricity that is—
- 13 (i) generated from a renewable energy source; and
- 14 (ii) equivalent in quantity to the source to which the FiT
15 entitlement relates.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 14 September 2017.

2 Notification

Notified under the [Legislation Act](#) on 2017.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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