2009

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

ELECTRICITY FEED-IN (RENEWABLE ENERGY PREMIUM) AMENDMENT BILL 2009

EXPLANATORY STATEMENT

Presented by
Mr Simon Corbell MLA
Minister for Energy

Australian Capital Territory

Electricity Feed-in (Renewable Energy Premium) Amendment Bill 2009

EXPLANATORY STATEMENT

Preamble

This Bill amends the *Electricity Feed-in (Renewable Energy Premium) Act 2008* to, in particular, clarify:

- issues of the eligibility of Government agencies and other parties to benefit under the Scheme established by the original Act;
- the scale of installations that qualify for Scheme coverage and benefit under the Act; and
- the definition of the "normal cost of electricity".

Clause 1
This clause notes the Bill name.

Clause 2
This clause establishes that the amended Act become effective on the same day as would have the original Act, being 1 July 2009 or an earlier date to be set by the Minister.

Clause 3
This clause notes that this Bill is an amending Bill.

Clause 4
This clause deletes the existing Objects of the Act. Those objects appear unchanged in a new Part 1A to the Act. See Clauses 5 and 5A below.

Clause 5
This clause establishes a new Part 1A to the Act. This new Part contains the Act Objects that were previously in Section 3.

Clause 5A
This clause has the effect of transferring (unchanged) the Objects of the Act from old Section 3 to a new Part 1A.

Clause 5B
This clause adds a new Section titled *Application of Act*.

Clause 1 of the new Section notes the application of the Act to NEL compliant renewable energy generators located in the ACT.

Clause 2 of the new Section introduces a cap to limit eligibility to renewable generation installations of no more than of 30kW (kilowatt) capacity. The Act did not previously include any cap on the size of installations that could benefit from feed-in arrangements. This lack of limits posed a long term and open-ended financial liability to the Territory and its residents.

This restriction better clarifies the original policy intent of the Act, that is, to promote renewable generation at householder and commercial building level, and prevents larger generators (that are more properly regulated under the National Electricity Law) from deriving super-ordinary profits at the expense of ACT electricity users through their access to the feed-in tariff premium.

Clause 3 of the new Section excludes Commonwealth and ACT Government agencies and authorities from eligibility. The Premium Price is intended to allow persons who invest in renewable generation to recoup and make a modest return on that investment over the life of the Scheme. That Premium is paid for by a small increase in the electricity costs of all ACT electricity users.

It s not considered appropriate that Government agencies who are already fully funded by the community should be able to benefit further from the Premium Price.

Similarly, new sub-section 3(d) provides a power for the Minister to further exclude other entities whose participation in the feed-in scheme is not considered appropriate.

Clause 4 of the new Section provides that any exclusion made by the Minister in respect of 3(d) must be by way of Disallowable Instrument

Clause 5 of the new Section defines what, for the purposes of these exclusions, constitutes a Commonwealth authority and Territory agency. Note that for the purpose of this Section, schools and other educational institutions are not considered to be either Commonwealth authorities or Territory agencies and remain eligible to access a Premium Price.

Clause 5C
This clause establishes a defined link between the *renewable energy generator* and the *renewable energy source*. This link was unclear in the original Act. This clause also incorporates the definition of a *renewable energy source*, previously contained in the Act Dictionary and provides a power by which the Minister may determine how other or as yet unknown generation technologies may be encompassed within the Act.

Clause 5D

This clause provides a definition of NEL compliance to make explicit the reference in 5B (1).

Clause 6
This clause deletes existing Sections 6 (3)-relocated to 5D above - and (4) being the reference to what constitutes the normal cost of electricity. This concept is now placed in new Section 6A of the Act (see Clause 9 below).

Clause 7
This clause contains a minor drafting correction to Section 6 (5). It does not in any way alter the effect of the existing clause.

Clause 8
This clause outlines the eligibility of renewable generators installed prior to the commencement of the Act. The clause limits payments for electricity generated only to that generated after that person enters into an arrangement under the Act by application to their electricity supplier for payment. This removes a previous ambiguity that hinted at retrospectivity of payment entitlement for past generation by existing solar installations.

Clause 9
This clause adds a new Section 6A that establishes a power by which the Minister may determine by Instrument the "normal cost of electricity". The Minister may also establish guidelines about how this cost may be determined.

The electricity retailer is obliged to purchase renewable electricity from the generator at the Premium Price. The retailer is also entitled to recover the difference in cost between that Price and the "normal cost of electricity" from the Distributor. The normal cost is defined in the Act as the Transitional Franchise Tariff (a guideline retail price). Ordinarily, such purchases would be at a wholesale price that allows for the coverage of legitimate costs and a profit margin.

As the electricity purchased under the feed-in scheme cannot be on-sold for greater than the TFT price, existing costs and levies and new costs associated with the feed-in scheme are not being met nor is there any profit margin for the retailer. The existing Act mandates that electricity retailers accept a loss position on every renewable generator and enter into a 20 year contract to perpetuate that outcome. This unintended outcome is corrected by this amendment.

Clause 10
This clause gives effect to the new 30kW limit set out in Clause 5B above. All references to eligibility in excess of 30kW have been removed along with the corresponding 75% payment threshold for those larger generators. This clause also corrects a minor error in the Act that expressed payment thresholds in kWh (kilowatt hours- a measure of output) rather than kW (kilowatts – a measure of capacity). The intention of the Act was to limit eligibility and entitlement to payment based on installed capacity.

This clause also adds a new sub-section (2) that provides that payments to generators be on a gross generation basis and be made on a quarterly in arrears basis. The Act

did not previously specify when payments were due. Billing in arrears is the standard practice in the ACT electricity market.

Clause 11
This clause incorporates a minor drafting addition to the list of examples for which the Legislation Act is the default definition source.

Clause12
This clause adds definitions to make clear references in the Act to the National Electricity Law and the means by which that Law is applied in the ACT.

Clause 13
This clause adds a dictionary reference to the "normal cost of electricity'. This was omitted from the original Act. The clause also adds a cross-reference notation indicating that full definitions of *renewable energy generator* and *renewable energy source* are now located in new Section 5C.