



Australian Capital Territory

Electricity Feed-in (Renewable Energy Premium) Act 2008

A2008-21

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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 1 March 2009. It also includes any amendment, repeal or expiry affecting the republished law to 1 March 2009.

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 includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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 *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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 Application of Act

- (1) This Act applies to an NEL compliant renewable energy generator installed in the ACT.
- (2) However, this Act does not apply to an NEL compliant renewable energy generator installed at premises if the capacity of the generator, or the total capacity of all the NEL compliant renewable energy generators installed at the premises, is more than 30kW.
- (3) Also, this Act does not apply to an NEL compliant renewable energy generator if the occupier of the premises at which the generator is installed is—
 - (a) a territory agency; or
 - (b) a territory-owned corporation; or
 - (c) the Commonwealth or a Commonwealth authority; or
 - (d) an entity determined by the Minister.

- (4) A determination under this section 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:

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).

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.

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).

5C *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.

renewable energy source means any of the following:

- (a) solar;
 - (b) wind;
 - (c) any other source determined by the Minister.
- (2) A determination under this section is a disallowable instrument.

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

5D *Meaning of NEL compliant*

For this Act, a renewable energy generator is *NEL compliant* if, when connected to the distributor's network, it would comply with the rules under the National Electricity (ACT) Law and the National Electricity (ACT) Regulations that apply to an embedded generation unit.

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 distributor's licence that the distributor must, on application by the occupier of premises at which there is an NEL compliant renewable energy generator—
 - (a) connect the 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; and
 - (ii) the normal cost of that electricity; and
 - (c) pass on to the occupier any additional metering costs in relation to electricity generated by the generator.

- (3) For the electricity supplier mentioned in subsection (2), it is a condition of the supplier's licence that the supplier must, on application by the occupier of premises at which there is an NEL compliant renewable energy generator connected to the electricity network, pay the occupier in accordance with section 8 (Payment for electricity from renewable energy generators) for the total amount of electricity generated by the 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 generators installed at the premises the total capacity of which is not more than 10kW—
 - (i) 100% of the premium rate; or
 - (ii) if another percentage is determined under section 9 for this paragraph—that percentage of the premium rate;
 - (b) for electricity generated by generators installed at the premises the total capacity of which is more than 10kW but not more than 30kW—
 - (i) 80% of the premium rate; or
 - (ii) if another percentage is determined under section 9 for this paragraph—that percentage of the premium rate.
- (2) Payment must be made to the occupier quarterly in arrears for the total amount of electricity generated by the generator.

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 occupier 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 occupiers 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 occupier 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) Until the Minister determines the premium rate under this section, the premium rate is 3.88 times the transition franchise tariff retail price on the day this Act commences.
- (5) 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 occupier; or
 - (c) if the generator is transferred to other premises which the occupier occupies.

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.

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.

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

National Electricity (ACT) Regulations means the provisions applying in the ACT because of the *Electricity (National Scheme) Act 1997*, section 6.

NEL compliant—see section 5D.

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 occupier of the premises where the generator is located makes the application for payment mentioned in section 6 (3).

renewable energy generator—see section 5C.

renewable energy source—see section 5C.

transition franchise tariff retail price, in relation to electricity generated by a renewable energy generator connected to an electricity network at any time, means the transition franchise tariff retail price payable for electricity at that time under a price direction under the *Independent Competition and Regulatory Commission Act 1997*.

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

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<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)

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

Application of Act

s 5B ins A2009-8 s 5

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

s 5C ins A2009-8 s 5

Meaning of *NEL compliant*

s 5D ins A2009-8 s 5

Feed-in from renewable energy generators to electricity network

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

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

Endnotes

5 Earlier republications

Recovery of cost of renewable energy premium

s 8A ins A2009-8 s 11

Determination of premium rate

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

Premium rate—20 years

s 11 am A2009-8 s 16

Dictionary

dict am A2009-8 s 17
def **National Electricity (ACT) Law** ins A2009-8 s 18
def **National Electricity (ACT) Regulations** ins A2009-8 s 18
def **NEL complaint** ins A2009-8 s 18
def **normal cost of electricity** ins A2009-8 s 18
def **premium rate** sub A2009-8 s 19
def **renewable energy generator** ins A2009-8 s 19
def **renewable energy source** sub A2009-8 s 19

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	not amended	new Act

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