

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

Electricity Feed-in (Large-scale Renewable Energy Generation) Bill 2011

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Dictionary 2
4	Notes 2
Part 2	Objects and important concepts
5	Objects of Act 3
6	Meaning of <i>large renewable energy generator</i> and <i>renewable energy source</i> 3
7	Meaning of <i>capacity</i> 4

J2010-623

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

	Page
Part 3	FiT entitlements
Division 3.1	Preliminary
8	Meaning of <i>FiT entitlement</i> 6
9	FiT capacity 6
Division 3.2	Releasing FiT capacity
10	FiT capacity release 6
11	FiT entitlement—grant 7
12	FiT entitlement—conditions 9
Division 3.3	Dealing with FiT entitlements
13	FiT entitlement—cancellation 11
14	FiT entitlement—surrender 12
15	FiT entitlement—transfer 12
16	Public notice of FiT entitlement matters 13
Part 4	Support payments for FiT entitlements
17	Meaning of <i>eligible electricity</i> 14
18	FiT support payment—distributor to pay 14
19	FiT support payment—working out 16
20	FiT support payment—guidelines 17
Part 5	Reporting
21	Quarterly reports by distributors 18
Part 6	Miscellaneous
22	Review of Act 19
23	Determination of fees 20
24	Approved forms 20
25	Regulation-making power 20
Dictionary	21

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

Electricity Feed-in (Large-scale Renewable Energy Generation) Bill 2011

A Bill for

An Act about the large-scale generation of electricity from renewable energy sources, and for other purposes

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

J2010-623

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) Act 2011*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 **3 Dictionary**

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

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

14 For example, the signpost definition ‘*electricity distributor*—see the
15 *Utilities Act 2000*, dictionary.’ means that the term ‘electricity
16 distributor’ is defined in that dictionary and the definition applies to this
17 Act.

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

22 **4 Notes**

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

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

1 (c) another energy source declared by the Minister under
2 subsection (2).

3 (2) The Minister may declare an energy source to be a renewable
4 energy source.

5 (3) A declaration is a disallowable instrument.

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

8 **7 Meaning of *capacity***

9 (1) For this Act, the *capacity*, of a generating system, is the nameplate
10 rating of the generating unit that makes up, or the total of the
11 nameplate ratings of the units that make up—

12 (a) for a system that generates electricity using a renewable energy
13 source only—the system; or

14 (b) for a system that generates electricity using a renewable energy
15 source and a non-renewable energy source—the part of the
16 system that generates electricity using the renewable energy
17 source only.

18 (2) However, if the Minister makes a determination under
19 subsection (3), the *capacity* of the system is the capacity worked out
20 in accordance with the determined method.

21 (3) The Minister may determine a method for measuring the capacity of
22 a system that generates electricity using a renewable energy source.

23 (4) Also, for a system that generates electricity using a renewable
24 energy source and a non-renewable energy source, the Minister may
25 determine a method for working out the part of the system that
26 generates electricity using a renewable energy source.

27 (5) A determination is a disallowable instrument.

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

- 1 (6) In this section:
- 2 *nameplate rating*, of a generating unit, means the maximum
- 3 continuous output, expressed in megawatts, of the unit as specified
- 4 by the manufacturer, or as subsequently modified.

1 **Part 3 FiT entitlements**

2 **Division 3.1 Preliminary**

3 **8 Meaning of *FiT entitlement***

4 In this Act:

5 *FiT entitlement* means a right for the holder of a FiT entitlement to
6 receive FiT support payments under part 4 for the holder's eligible
7 electricity.

8 **9 FiT capacity**

9 The total capacity of the generating systems of large renewable
10 energy generators in relation to which FiT entitlements may be held
11 under this Act (the *FiT capacity*) is 210MW.

12 **Division 3.2 Releasing FiT capacity**

13 **10 FiT capacity release**

14 (1) The Minister may determine that a stated part of the FiT capacity (a
15 *FiT capacity release*) is to be made available for the grant of FiT
16 entitlements.

17 (2) The determination must state—

18 (a) whether the FiT capacity release will be made available by a
19 competitive process or by direct grant to any person the
20 Minister considers appropriate; and

21 (b) the following in relation to any FiT entitlement that may be
22 granted under the release:

23 (i) the term (not longer than 20 years) of the entitlement;

24 (ii) the kind of renewable energy source that must be used;

- 1 (iii) whether a large renewable energy generator must be
2 located in the ACT; and
- 3 (c) for a release to be made available by direct grant—any criteria
4 a person, or a person’s proposal, must meet to be eligible for a
5 direct grant.
- 6 (3) In deciding whether to make a FiT entitlement available by direct
7 grant, the Minister must have regard to—
- 8 (a) the advantages and disadvantages to the Territory of not
9 undertaking a competitive process; and
- 10 (b) the objects of the Act.
- 11 (4) A determination is a disallowable instrument.

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

14 **11 FiT entitlement—grant**

- 15 (1) The Minister may grant a person a FiT entitlement in relation to a
16 large renewable energy generator under a FiT capacity release.
- 17 (2) However, the Minister must not grant a person a FiT entitlement if
18 the grant would cause the FiT capacity release to be exceeded.
- 19 (3) In granting a FiT entitlement, the Minister must have regard to the
20 following:
- 21 (a) probity and ethical behaviour;
- 22 (b) management of risk to the Territory;
- 23 (c) the objects of this Act;
- 24 (d) if the entitlement is granted under a FiT capacity release made
25 available by a competitive process—open and effective
26 competition.

- 1 (4) The grant of a FiT entitlement must state the following:
- 2 (a) the name of the holder of the entitlement;
- 3 (b) the term (not longer than 20 years) of the entitlement;
- 4 (c) when the term of the entitlement starts;
- 5 (d) the amount of the feed-in tariff;
- 6 (e) the requirements for the large renewable generator,
7 including—
- 8 (i) the kind of renewable energy source that must be used;
9 and
- 10 (ii) the capacity of the generator's generating system;
- 11 (f) a description of the generator;
- 12 **Example**
- 13 the generator's plant specification
- 14 *Note* An example is part of the Act, is not exhaustive and may extend,
15 but does not limit, the meaning of the provision in which it
16 appears (see Legislation Act, s 126 and s 132).
- 17 (g) whether large-scale generation certificates for eligible
18 electricity generated by the large renewable energy generator
19 must be transferred to the Territory under the *Renewable*
20 *Energy (Electricity) Act 2000* (Cwlth).
- 21 (5) The grant of a FiT entitlement is a notifiable instrument.
- 22 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **12 FiT entitlement—conditions**

- 2 (1) A FiT entitlement is subject to the following conditions:
- 3 (a) that the large renewable energy generator complies with—
- 4 (i) the requirements for the generator stated in the grant
- 5 under section 11 (4) (e); and
- 6 (ii) the description of the generator stated in the grant under
- 7 section 11 (4) (f);
- 8 (b) that the holder of the FiT entitlement complies with—
- 9 (i) any requirement in relation to renewable energy
- 10 certificates stated in the grant under section 11 (4) (g);
- 11 and
- 12 (ii) all laws relating to the construction, connection or
- 13 operation of the large renewable energy generator; and
- 14 (iii) any written agreement the Minister requires the holder to
- 15 enter into under subsection (3);
- 16 (c) any other condition imposed by the Minister that the Minister
- 17 considers appropriate to protect the interests of the Territory or
- 18 promote the objects of the Act.
- 19 (2) The conditions imposed under subsection (1) (c) may include
- 20 conditions about any of the following:
- 21 (a) establishing a schedule for construction of the large renewable
- 22 energy generator and meeting stated deadlines in relation to its
- 23 construction;
- 24 (b) complying with a stated law in relation to the construction,
- 25 connection or operation of the large renewable energy
- 26 generator within a stated time;

- 1 (c) establishing and meeting stated deadlines in relation to
2 financing arrangements necessary for the construction,
3 connection or operation of the large renewable energy
4 generator;
- 5 (d) entering into an agreement with an electricity distributor to
6 connect the large renewable energy generator to the
7 distributor's electricity network within a stated time;
- 8 (e) connecting the large renewable energy generator to an
9 electricity network and supplying electricity to the network
10 within a stated time;
- 11 (f) where a large renewable energy generator must be located and
12 connected to an electricity network;
- 13 (g) the kind of generating system that must be used;
- 14 (h) the minimum quantity of eligible electricity that must be
15 generated by the large renewable energy generator in a stated
16 time;
- 17 (i) the maximum quantity of eligible electricity, in a financial
18 year, in relation to which the holder is entitled to be paid a FiT
19 support payment;
- 20 (j) allowing reasonable access to the premises of the holder of a
21 FiT entitlement and where the large renewable energy
22 generator is located to check the holder's compliance with the
23 conditions of the FiT entitlement;
- 24 (k) amending a FiT entitlement, including imposing a new
25 condition or amending an existing condition.
- 26 (3) The Minister may require the holder of a FiT entitlement to enter
27 into a written agreement (however described) with the Territory, on
28 terms approved by the Minister, in relation to the entitlement.

1 **Division 3.3** **Dealing with FiT entitlements**

2 **13** **FiT entitlement—cancellation**

3 (1) The Minister may, by written notice (a *cancellation notice*) given to
4 the holder of a FiT entitlement, cancel the entitlement if the Minister
5 believes on reasonable grounds that a condition of the entitlement
6 has been breached, whether by the holder or otherwise.

7 (2) However, the Minister must not cancel a FiT entitlement unless the
8 Minister—

9 (a) gives the holder of the entitlement written notice (an *intended*
10 *cancellation notice*) of the Minister's intention to cancel the
11 entitlement; and

12 (b) takes into consideration any response received from the holder
13 in accordance with the notice.

14 (3) An intended cancellation notice must—

15 (a) state that the Minister intends to cancel the FiT entitlement;
16 and

17 (b) explain why the Minister intends to cancel the FiT entitlement;
18 and

19 (c) state that the holder of the entitlement may, within 28 days
20 after the day the holder is given the notice, give a written
21 response to the Minister about the matters in the notice.

22 *Note* For how documents may be served, see the Legislation Act, pt 19.5.

23 (4) Cancellation of a FiT entitlement under this section takes effect on
24 the day and at the time stated in the cancellation notice.

1 **14 FiT entitlement—surrender**

- 2 (1) The holder of a FiT entitlement may surrender the entitlement by
3 giving written notice of the surrender to the Minister.
- 4 (2) On receipt of a notice under subsection (1), the Minister must
5 confirm the surrender, by written notice (a *surrender notice*) given
6 to the holder of the FiT entitlement.
- 7 (3) Surrender of a FiT entitlement under this section takes effect on the
8 day and at the time stated in the surrender notice.

9 **15 FiT entitlement—transfer**

- 10 (1) The holder of a FiT entitlement (the *transferor*) may apply, in
11 writing, to the Minister to transfer the entitlement to another person
12 (the *transferee*).
- 13 (2) The Minister may, by written notice to the transferor and transferee
14 (a *transfer notice*), transfer the FiT entitlement to the transferee.
- 15 (3) In considering whether to transfer the FiT entitlement to the
16 transferee, the Minister must have regard to—
- 17 (a) the matters mentioned in section 11 (3) (a) to (c) (FiT
18 entitlement—grant); and
- 19 (b) whether the transferee can comply with the conditions of the
20 FiT entitlement.
- 21 (4) The Minister may impose additional conditions on a FiT entitlement
22 transferred under this section.
- 23 *Note* The conditions of a FiT entitlement are set out under s 12.
- 24 (5) The transfer of a FiT entitlement takes effect on the day and at the
25 time stated in the surrender notice.

- 1 **16 Public notice of FiT entitlement matters**
- 2 (1) The Minister must prepare a notice of each of the following after it
- 3 happens:
- 4 (a) cancellation of a FiT entitlement under section 13;
- 5 (b) surrender of a FiT entitlement under section 14;
- 6 (c) transfer of a FiT entitlement under section 15.
- 7 (2) The notice must state—
- 8 (a) for a cancellation or surrender of a FiT entitlement—the name
- 9 of the holder of the FiT entitlement; and
- 10 (b) for a transfer of a FiT entitlement—the names of the person
- 11 transferring the entitlement and the person to whom the
- 12 entitlement is transferred; and
- 13 (c) a description and the location of the large renewable energy
- 14 generator under the FiT entitlement; and
- 15 (d) when the cancellation, surrender or transfer took effect.
- 16 (3) A notice is a notifiable instrument.
- 17 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **Part 4** **Support payments for FiT**
2 **entitlements**

3 **17** **Meaning of *eligible electricity***

4 In this Act:

5 *eligible electricity* means electricity—

6 (a) generated by a large renewable energy generator connected to
7 an electricity network; and

8 *Note* The National Electricity (ACT) Law and national electricity rules
9 govern the process by which a person may apply for connection
10 to an electricity network.

11 (b) for which large-scale generation certificates have been
12 registered under the *Renewable Energy (Electricity) Act 2000*
13 (Cwlth); and

14 (c) generated using a renewable energy source; and

15 (d) supplied to the electricity network; and

16 (e) sold through the national electricity market or directly to a
17 market participant.

18 **18** **FiT support payment—distributor to pay**

19 (1) This section applies to an electricity distributor if a large renewable
20 energy generator in relation to which a FiT entitlement is granted is
21 connected to its electricity network.

22 (2) The distributor must pay the holder of the FiT entitlement an
23 amount (the *FiT support payment*) worked out under section 19, for
24 the holder's eligible electricity.

- 1 (3) However, if it is a condition of a holder's FiT entitlement that there
2 is a maximum quantity of a holder's eligible electricity, in a
3 financial year, in relation to which the holder is entitled to be paid a
4 FiT support payment, the distributor need not pay the holder an
5 amount in relation to electricity generated in excess of the maximum
6 quantity in a financial year.
- 7 (4) The FiT support payment is payable—
- 8 (a) in arrears; and
- 9 (b) within 30 days after the later of—
- 10 (i) the day the holder gives the distributor written notice that
11 the large-scale generation certificates for the holder's
12 eligible electricity, worked out under the *Renewable*
13 *Energy (Electricity) Act 2000* (Cwlth), section 18 (3),
14 have been registered under that Act, section 26; and
- 15 (ii) the day the holder gives the distributor any other
16 information reasonably required by the distributor to work
17 out the FiT support payment; and
- 18 (c) in relation to eligible electricity generated during the period the
19 holder of the FiT entitlement holds the entitlement; and
- 20 (d) otherwise in accordance with any guidelines for paying a FiT
21 support payment made by the Minister under section 20.
- 22 *Note* An amount owing under a law may be recovered as a debt in a court of
23 competent jurisdiction or the ACAT (see Legislation Act, s 177).

1 **19 FiT support payment—working out**

2 (1) A FiT support payment for the holder of a FiT entitlement for a
3 period is the multiple of—

4 (a) the amount that is the holder’s feed-in tariff, stated in the grant,
5 less the spot price value of the eligible electricity during the
6 period; and

7 (b) the quantity of the holder’s eligible electricity during the
8 period.

9 (2) If the amount of a FiT support payment worked out under this
10 section is a negative amount, the electricity distributor may—

11 (a) offset the amount against any subsequent FiT support payment
12 payable to the holder of the FiT entitlement; or

13 (b) require the holder of the FiT entitlement, by written notice, to
14 pay the distributor the amount within 30 days after the
15 distributor gives the notice.

16 (3) In this section:

17 *AEMO*—see the national electricity rules, chapter 10 (Glossary).

18 *spot market*—see the national electricity rules, chapter 10
19 (Glossary).

20 *spot price value*, of the eligible electricity of the holder of a FiT
21 entitlement, means the amount that would have been paid to the
22 holder for the electricity by the AEMO if the electricity had been
23 sold on the spot market.

1 **20 FiT support payment—guidelines**

2 (1) The Minister may issue guidelines about—

3 (a) working out a FiT support payment under section 19 (1); or

4 (b) paying a FiT support payment.

5 **Example**

6 how often the FiT support payment is payable to the holder of a FiT
7 entitlement

8 *Note* An example is part of the Act, is not exhaustive and may extend,
9 but does not limit, the meaning of the provision in which it
10 appears (see Legislation Act, s 126 and s 132).

11 (2) A guideline is a notifiable instrument.

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

1 **Part 5 Reporting**

2 **21 Quarterly reports by distributors**

3 (1) For each quarter that 1 or more large renewable energy generators
4 are connected to an electricity network, the electricity distributor for
5 the network must report to the Minister about the following in
6 relation to each connected generator:

7 (a) if the generator was first connected to the electricity network
8 during the quarter—the cost of connecting the generator to the
9 network, including any network augmentation that was
10 required to facilitate the connection;

11 (b) the cost of maintaining the connection of the generator to the
12 network and maintaining any network augmentation required
13 to facilitate the connection;

14 (c) the quantity of eligible electricity supplied by the generator to
15 the electricity network in a trading interval, and the spot price
16 value for electricity in each interval;

17 (d) the FiT support payment paid by the distributor, during the
18 quarter, to the holder of the FiT entitlement in relation to the
19 generator.

20 (2) The electricity distributor must give the Minister the report for a
21 quarter before the end of the next quarter.

22 (3) In this section:

23 *spot price value*, of the eligible electricity of the holder of a FiT
24 entitlement—see section 19 (3).

25 *trading interval*—see the national electricity rules, chapter 10
26 (Glossary).

1 **Part 6** **Miscellaneous**

2 **22** **Review of Act**

- 3 (1) The Minister must review a FiT capacity release within 6 months
4 after the last FiT entitlement under the release is granted.
- 5 (2) A review under subsection (1) must include—
- 6 (a) an evaluation of the outcomes in relation to achieving value for
7 money; and
- 8 (b) in relation to a competitive process for a FiT capacity release—
9 an evaluation of the process, including the administration of
10 the process and its effectiveness in generating competition.
- 11 (3) The Minister must review the operation of this Act after the end of
12 its 5th year of operation, and at least once every subsequent 5 years
13 of its operation.
- 14 (4) A review under subsection (3) must include—
- 15 (a) an evaluation of the progress of construction of large
16 renewable energy generators; and
- 17 (b) a consideration of the effectiveness of the operation of this Act
18 in achieving the objects of this Act; and
- 19 (c) a consideration of the impact of costs under this Act on
20 electricity consumers.
- 21 (5) The Minister must present a copy of a report of a review to the
22 Legislative Assembly not later than 6 months after the end of the
23 period for undertaking the review.

1 **23 Determination of fees**

2 (1) The Minister may determine fees for this Act.

3 *Note* The Legislation Act contains provisions about the making of
4 determinations and regulations relating to fees (see pt 6.3)

5 (2) A determination is a disallowable instrument.

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

8 **24 Approved forms**

9 (1) The Minister may approve forms for this Act.

10 (2) If the Minister approves a form for a particular purpose, the
11 approved form must be used for the purpose.

12 *Note* For other provisions about forms, see the Legislation Act, s 255.

13 (3) An approved form is a notifiable instrument.

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

15 **25 Regulation-making power**

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

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

19 (2) A regulation may create offences and fix maximum penalties of not
20 more than 10 penalty units for the offences.

Dictionary

(see s 3)

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:

- Act
- ACT
- Commonwealth
- disallowable instrument (see s 9)
- Executive
- in relation to
- may (see s 146)
- Minister (see s 162)
- month
- must (see s 146)
- notifiable instrument (see s 10)
- person (see s 160)
- quarter
- regulation
- territory law
- the Territory
- under
- writing.

capacity, of a generating system—see section 7.

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

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

eligible electricity—see section 17.

FiT capacity—see section 9.

FiT capacity release—see section 10 (1).

- 1 ***FiT entitlement***—see section 8.
- 2 ***FiT support payment***—see section 18 (2).
- 3 ***generating system***—see the national electricity rules, chapter 10
4 (Glossary).
- 5 ***generating unit***—see the national electricity rules, chapter 10
6 (Glossary).
- 7 ***large renewable energy generator***—see section 6.
- 8 ***large-scale generation certificate***—see the *Renewable Energy*
9 (*Electricity*) *Act 2000* (Cwlth), section 5.
- 10 ***market participant***—see the national electricity rules, chapter 10
11 (Glossary).
- 12 ***National Electricity (ACT) Law*** means the provisions applying in
13 the ACT because of the *Electricity (National Scheme) Act 1997*,
14 section 5.
- 15 ***national electricity market***—see the national electricity rules,
16 chapter 10 (Glossary).
- 17 ***national electricity rules*** means the national electricity rules under
18 the National Electricity (ACT) Law.
- 19 ***renewable energy source***—see section 6.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

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

© Australian Capital Territory 2011