

2008

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

**Renewable Energy (Electricity)  
Amendment (Feed-in-Tariff) Bill 2008**

**No.      , 2008**

*(Senator Milne)*

**A Bill for an Act to amend the *Renewable Energy  
(Electricity) Act 2000* to support the greater  
commercialisation of renewable energy  
technologies and for related purposes**



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1     **A Bill for an Act to amend the *Renewable Energy***  
2     ***(Electricity) Act 2000* to support the greater**  
3     **commercialisation of renewable energy**  
4     **technologies and for related purposes**

5     The Parliament of Australia enacts:  
6

7     **1 Short title**

8                     This Act may be cited as the *Renewable Energy (Electricity)*  
9                     *Amendment (Feed-in-Tariff) Act 2008*.

10    **2 Commencement**

11                    This Act commences on the day on which it receives the Royal  
12                    Assent.

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1     **3 Schedule(s)**

2                   Each Act that is specified in a Schedule to this Act is amended or  
3                   repealed as set out in the applicable items in the Schedule  
4                   concerned, and any other item in a Schedule to this Act has effect  
5                   according to its terms.

6     **4 Object**

7                   The object of this Act is to support the commercialisation of a  
8                   broad range of prospective renewable energy technologies by:

- 9                   (a) providing specifically tailored support for a range of  
10                   renewable energy technologies that are currently not  
11                   adequately assisted by the mandatory renewable energy  
12                   target;
- 13                   (b) requiring electricity retailers to permit owners of qualifying  
14                   generators to supply the electricity grid with electricity  
15                   generated from selected renewable energy sources;
- 16                   (c) providing a payment to owners of qualifying generators for  
17                   the renewable electricity which they produce from renewable  
18                   energy sources installed after the commencement of this Act;
- 19                   (d) establishing an effective monitoring regime to monitor the  
20                   extent of production of renewable electricity by owners of  
21                   qualifying generators.

22     **5 Review of operation of Act**

- 23                   (1) The Minister must cause to be prepared an independent report on  
24                   the operation of the amendments made by this Act for the period  
25                   beginning on the date of its commencement and ending on the next  
26                   30 June after date, and for each subsequent 12 month period ending  
27                   on 30 June in a later year.
- 28                   (2) If the day on which this Act commences is on or after 1 January in  
29                   a year, the report prepared under subsection (1) in relation to the  
30                   period from that day to 30 June in that year must be included in  
31                   and presented with the report prepared under subsection (1) for the  
32                   year beginning on 1 July next following the commencement of this  
33                   Act.

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- 1 (3) The Minister must cause a copy of a report prepared under  
2 subsection (1) to be laid before each House of the Parliament  
3 within 5 sitting days of that House after the day on which he or she  
4 receives the report.
- 5 (4) A report prepared under subsection (1) must include:
- 6 (a) details of total renewable energy produced from each source  
7 listed in section 17 of the *Renewable Energy (Electricity) Act*  
8 *2000*; and
- 9 (b) total payments made under the feed-in-tariff rate scheme  
10 established by section 34C of the *Renewable Energy*  
11 *(Electricity) Act 2000*; and
- 12 (c) total amounts of levies received under the *Renewable Energy*  
13 *(Electricity) Feed-in-Tariff Levy Act 2008*.

1  
2 **Schedule 1—Amendment of the Renewable**  
3 **Energy (Electricity) Act 2000**  
4

5 **1 Section 5**

6 Insert:

7 ***direct customer*** means a person or company who:

- 8 (a) is directly connected to an electricity distribution network  
9 other than by means of the distribution system of the  
10 electricity retailer; and  
11 (b) satisfies other criteria (if any) prescribed by the regulations  
12 for the purposes of this definition.

13 ***electricity retailer*** is a company or other entity that provides  
14 electricity to customers.

15 ***excluded network*** means an electricity distribution network that  
16 supplies electricity to less than 10,000 retail customers.

17 ***feed-in-tariff rate scheme*** means the scheme established by  
18 section 34C.

19 ***kWh*** means kilowatt hour.

20 ***qualifying generator*** means a renewable energy electricity  
21 generator that:

- 22 (a) is installed after the commencement of the *Renewable*  
23 *Energy (Electricity) Amendment (Feed-in-Tariff) Act 2008*;  
24 and  
25 (b) complies with the relevant Australian Standard; and  
26 (c) is connected to an electricity distribution network in a  
27 manner that allows electricity generated by the renewable  
28 energy electricity generator to be fed into the electricity  
29 distribution network, other than where the electricity  
30 distribution network is an excluded network; and  
31 (d) generates electricity from a source listed in section 17 as an  
32 eligible renewable energy source; and

1 (e) forgoes participation in the mandatory renewable energy  
2 target scheme.

3 **retail customer** means a customer who:

- 4 (a) ordinarily acquires electricity primarily for domestic or  
5 business use; and  
6 (b) is not a direct customer; and  
7 (c) satisfies other criteria (if any) prescribed by the regulations  
8 for the purposes of this definition.

9 **2 After Part 3**

10 Insert:

11 **Part 3A—Acquisition of electricity from owners of**  
12 **qualifying generators**

13 **34A Feeding-in of electricity to grid by owners of qualifying**  
14 **generators**

- 15 (1) Electricity retailers must:  
16 (a) permit an owner of a qualifying generator to feed into the  
17 grid electricity generated by the qualifying generator (subject  
18 to complying with any relevant technical, safety or other  
19 requirements imposed by or under this or any other Act or  
20 relevant instrument); and  
21 (b) comply with such reporting requirements as may be  
22 prescribed.
- 23 (2) An owner of a qualifying generator who feeds into the grid in  
24 accordance with subsection (1) must install a meter, of a type  
25 prescribed by the regulations for the purposes of this subsection, to  
26 measure the total amount of renewable electricity energy generated  
27 by the qualifying generator.

28 **34B Registration of qualifying generators**

29 An owner of a qualifying generator who feeds into the grid  
30 electricity generated by the qualifying generator is eligible to

- 1 receive payments of the feed-in-tariff rate in accordance with  
2 section 34G, subject to the owner of the qualifying generator:  
3 (a) registering the qualifying generator with the Regulator, for  
4 inclusion in the Feed-in-Tariff Register established under  
5 section 34F; and  
6 (b) complying with any relevant technical, safety or other  
7 requirements imposed by or under this or any other Act or  
8 relevant instrument.

9 **34C Feed-in-tariff rate scheme**

- 10 (1) The feed-in-tariff rate scheme is established by this section.  
11 (2) The feed-in-tariff rate scheme is the payment to the owner of a  
12 qualifying generator that is registered with the Regulator of an  
13 amount, calculated by reference to:  
14 (a) the relevant feed-in-tariff rate set by the Minister under  
15 section 34D; and  
16 (b) all the electricity produced by that qualifying generator, not  
17 just the electricity which is exported to the electricity grid.

18 **34D Feed-in-tariff rates**

- 19 (1) The Minister must, within 28 days of the commencement of the  
20 *Renewable Energy (Electricity) Amendment (Feed-in-Tariff) Act*  
21 *2008*, set the feed-in-tariff rates for qualifying generators that are  
22 to be paid under the feed-in-tariff rate scheme in respect of a  
23 qualifying generator that is registered for the first time during the  
24 financial year in which that Act commences.  
25 (2) The Minister must, by the end of each financial year, set the  
26 feed-in-tariff rates for qualifying generators that are to be paid  
27 under the feed-in-tariff rate scheme in respect of a qualifying  
28 generator that is registered for the first time during the following  
29 financial year.  
30 (3) The Minister may set a target level of installed capacity to be  
31 achieved. If the Minister sets a target level of installed capacity to  
32 be achieved, the Minister cannot change it until the fifth  
33 anniversary of the date on which the target level was initially set.

- 1 (4) In setting the feed-in-tariff rates in accordance with subsection (1)  
2 or (2), the Minister may take into account:  
3 (a) the type of qualifying generator; and  
4 (b) the location of the qualifying generator; and  
5 (c) the installed capacity.
- 6 (5) If the Minister has set the feed-in-tariff rates that are to apply for a  
7 financial year, the Minister must not vary those rates during that  
8 financial year.
- 9 (6) In setting the feed-in-tariff rates in accordance with subsection (2)  
10 that are to apply for the following financial year, the Minister may  
11 increase, vis-à-vis the current financial year feed-in-tariff rates, a  
12 feed-in-tariff rate that is to apply during that following financial  
13 year.
- 14 (7) Subject to section 34B, the relevant feed-in-tariff rate is payable to  
15 an owner of a qualifying generator for each kWh of electricity  
16 generated by the qualifying generator during a financial year.
- 17 (8) In setting the feed-in-tariff rates in accordance with subsection (1)  
18 or (2), the Minister's objective is to support the economic viability  
19 of a set quantity of electricity generation from a range of  
20 prospective renewable energy technologies.
- 21 (9) The Minister must not reduce a feed-in-tariff rate set under  
22 subsection (1) or (2) during the period of 5 years starting on the  
23 date that that rate is initially set by the Minister.
- 24 (10) If the Minister reduces a feed-in-tariff rate in accordance with  
25 subsection (9), the reduction must not be more than 10 per cent of  
26 the rate that applied before the reduction.
- 27 (11) The restrictions in subsections (9) and (10) on reductions to the  
28 feed-in-tariff rate do not apply if the level of installed capacity,  
29 which may be set by the Minister under subsection (3), is achieved.
- 30 (12) A feed-in-tariff rate set under subsection (1) or (2) and payable to  
31 the owner of a qualifying generator at the date of the registration of  
32 the qualifying generator is fixed and guaranteed for a period of 20  
33 years from the date of the registration.
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- 1 (13) The feed-in-tariff rates set for qualifying generators must be  
2 reviewed annually by the Minister in accordance with the  
3 following factors:  
4 (a) the prospect for the technology to reliably produce  
5 competitively priced electricity by the end of the calendar  
6 year 2020; and  
7 (b) the environmental cost or impact of the technology.
- 8 (14) The Minister must provide a statement explaining how the  
9 feed-in-tariff rates are calculated and must table that statement in  
10 both Houses of Parliament within 15 sitting days after the end of  
11 each financial year.
- 12 (15) The feed-in-tariff rates set under subsection (1) or (2) and the  
13 statement made under subsection (14) by the Minister are not  
14 legislative instruments and section 42 (disallowance) of the  
15 *Legislative Instruments Act 2003* does not apply to them.

#### 16 **34E Feed-in-tariff levy rate**

- 17 (1) The Minister must, by the end of each financial year, set a  
18 feed-in-tariff levy rate per MWh of electric energy acquisition  
19 from the electricity grid, to fund the feed-in-tariff rate scheme for  
20 the following financial year. The feed-in-tariff levy is imposed by  
21 the *Renewable Energy (Electricity) Feed-in-Tariff Levy Act 2008*.
- 22 (2) The Minister must ensure that the feed-in-tariff levy rate set in  
23 accordance with subsection (1) is sufficient to cover the estimated  
24 cost of payments under the feed-in-tariff rate scheme.
- 25 (3) The feed-in-tariff levy is payable by all electricity retailers and  
26 direct customers of electric energy from the grid, calculated by  
27 reference to their annual energy acquisition statements lodged  
28 under section 44.
- 29 Note: The annual energy acquisition statement is used to calculate the  
30 renewable energy shortfall charge of an electricity retailer or a direct  
31 customer (a *liable entity*). The same statement is to be used to  
32 calculate the amount of the feed-in-tariff levy.
- 33 (4) The Minister must provide a statement explaining how the  
34 feed-in-tariff levy rate is calculated and must table that statement in

1 both Houses of Parliament within 15 sitting days after the end of  
2 each financial year.

3 (5) The feed-in-tariff levy rates set under subsection (1) and the  
4 statement made under subsection (4) by the Minister are not  
5 legislative instruments and section 42 (disallowance) of the  
6 *Legislative Instruments Act 2003* does not apply to them.

7 **34F Establishment of a Feed-in-Tariff Register**

8 (1) The Regulator must establish a register to be known as the  
9 Feed-in-Tariff Register (the *Register*).

10 (2) The Regulator must record in the Register:

11 (a) details of all registered qualifying generators, including the  
12 name and address of the owner of the qualifying generator,  
13 the date of registration of the qualifying generator and the  
14 type of qualifying generator (that is, the eligible renewable  
15 energy source used by the qualifying generator); and

16 (b) the total amount of electricity produced by each registered  
17 qualifying generator; and

18 (c) the feed-in-tariff rate to be paid to the owner of a registered  
19 qualifying generator and the period for which the  
20 feed-in-tariff rate will be paid.

21 (3) The Regulator must provide details of the amount of total  
22 payments made under the feed-in-tariff scheme for inclusion in the  
23 report prepared in accordance with subsection 5(1) of the  
24 *Renewable Energy (Electricity) Amendment (Feed-in-Tariff) Act*  
25 *2008*.

26 **34G Feed-in-tariff rate payments**

27 (1) The owner of a qualifying generator must lodge with the Regulator  
28 within 30 days of each anniversary of the registration of the  
29 qualifying generator an annual return in the prescribed form  
30 indicating the metered energy produced by the qualifying  
31 generator.

- 1                   (2) The Regulator must pay the feed-in-tariff rate to the owner of a  
2                   qualifying generator within 30 days of receiving from the owner an  
3                   annual return in accordance with subsection (1).
- 4                   (3) Payments in accordance with subsection (2) are to be made from  
5                   money appropriated by the Parliament for that purpose.