

TASMANIA

ELECTRICITY SUPPLY INDUSTRY AMENDMENT (FEED-IN TARIFFS AND OTHER MATTERS) BILL 2013

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**ELECTRICITY SUPPLY INDUSTRY
AMENDMENT (FEED-IN TARIFFS AND OTHER
MATTERS) BILL 2013**

*(Brought in by the Minister for Energy and Resources, the
Honourable Bryan Alexander Green)*

A BILL FOR

An Act to amend the *Electricity Supply Industry Act 1995*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

*This Act may be cited as the *Electricity Supply Industry Amendment (Feed-in Tariffs and Other Matters) Act 2013*.*

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Principal Act

In this Act, the *Electricity Supply Industry Act 1995** is referred to as the Principal Act.

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4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *distribution network*:

distributor, in relation to premises, means an electricity entity that holds a licence to distribute electricity by way of the distribution network by which electricity may be supplied to the premises;

- (b) by inserting the following definition after the definition of *powerline*:

prepayment meter system has the same meaning as in the National Energy Retail Law (Tasmania);

- (c) by omitting “Division 4 or 4A of Part 3” from paragraph (a) of the definition of *reviewable decision* and substituting “Division 4, 4A or 5A of Part 3”.

5. Section 38A amended (Transitional provisions in relation to retail sales)

Section 38A(9) of the Principal Act is amended by omitting the definitions of *transitional customer* and *transitional prepayment meter*

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customer and substituting the following definitions:

transitional customer, in relation to premises, means a person who –

- (a) is, immediately before 1 January 2014, a non-contestable customer in relation to the premises; or
- (b) if the person had been, immediately before 1 January 2014, a customer in relation to the premises, would have been a non-contestable customer, in relation to the premises, under the *Electricity Supply Industry (Customer) Regulations 2012*, as in force immediately before 1 January 2014 –

and includes a transitional prepayment meter customer;

transitional prepayment meter customer, in relation to premises, means a person who is a customer to whom electricity is provided at the premises using a prepayment meter system.

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6. Section 43B substituted

Section 43B of the Principal Act is repealed and the following section is substituted:

43B. Only local area retailer may sell unmetered electricity

An authorised retailer, other than a local area retailer, within the meaning of the National Energy Retail Law (Tasmania), must not sell electricity to be supplied to a type 7 metering installation, within the meaning of the National Electricity Rules, unless that installation –

- (a) is classified under those Rules as a market load; and
- (b) is of a type of installation included in a load table published by the AEMO in accordance with a metrology procedure approved by the AEMO.

7. Part 3, Division 5A inserted

After section 44 of the Principal Act, the following Division is inserted in Part 3:

Division 5A – Feed-in tariffs

44A. Interpretation of Division 5A

- (1) In this Division –

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AS 4777 means Australian Standard AS 4777, issued and published by Standards Australia, as that Standard is amended, or substituted, from time to time;

billing period, in relation to premises, means a period to which relates, or is to relate, an electricity account in respect of the premises;

electricity account, in respect of premises, means an invoice, for the supply of electricity to the premises, that is issued, or to be issued, by an authorised retailer in respect of the premises;

feed-in tariff billing amount, in respect of a billing period, means the amount calculated under section 44E(3) in relation to the billing period;

feed-in tariff customer, in respect of premises, means –

- (a) a standard feed-in tariff customer in respect of the premises; and
- (b) a transitional feed-in tariff customer in respect of the premises;

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feed-in tariff supply statement, in respect of a billing period in relation to premises, means a written statement (which may form part of an electricity account in respect of the premises) setting out –

- (a) the quantity of electricity that has been, during the billing period, supplied to a distribution network by a qualifying system at the premises; and
- (b) the feed-in tariff billing amount in respect of the billing period in relation to the premises; and
- (c) any amount, in addition to the feed-in tariff billing amount in respect of the billing period in relation to the premises, that relates to the supply, to the distribution network in respect of the premises, of electricity from a qualifying system installed at the premises;

qualifying system, in relation to premises, means a qualifying system, within the meaning of

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section 44B, in relation to the premises;

quarterly billing period means a period of not less than 85 days and not more than 95 days;

residential customer, in respect of premises, means a person who purchases electricity principally for use at the premises for personal, household or domestic purposes;

small business customer, in respect of premises, means a small customer who is not a residential customer;

spouse, in relation to a customer, means –

- (a) a person who is, or was immediately before the customer's death, a spouse of the customer; and
- (b) a person with whom the customer is, or was immediately before the customer's death, in a significant relationship, within the meaning of the *Relationships Act 2003*;

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standard feed-in tariff customer
means a customer to whom
section 44C applies;

transition day means 31 August 2013;

transitional feed-in tariff customer
means a customer to whom
section 44D(1) applies.

- (2) For the purposes of this Division, electricity that is supplied to a distribution network from a qualifying system installed at premises is only to be taken to form part of a kilowatt hour of supply of the electricity from the qualifying system if, at the instant at which the electricity is so supplied, the amount generated by the system is more than the amount of electricity being supplied, at that instant, from the distribution network to the premises by one or more circuits, connected to the qualifying system, to which relates a price that is charged, or may be charged, by an authorised retailer for the supply of electricity.

44B. Qualifying systems

- (1) For the purposes of this Division, a system is a qualifying system in relation to premises if the system –

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- (a) is a system for the generation of electricity by solar, wind or water power; and
 - (b) complies with AS 4777 or, if it does not comply with AS 4777, is approved, before the transition day, by the distributor in respect of the premises at which the system is installed; and
 - (c) has the relevant total generation capacity in relation to the premises; and
 - (d) is not a member of a class of systems that are prescribed by the regulations not to be qualifying systems for the purposes of this Division.
- (2) For the purposes of subsection (1)(c), a system has the relevant total generation capacity in relation to premises if –
- (a) where the system installed at the premises has a single-phase inverter and is not a system to which paragraph (c) applies – the system has a total generation capacity of not more than 10kVA; or
 - (b) where the system installed at the premises has a 3-phase inverter and is not a system to which

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paragraph (c) applies – the system has a total generation capacity of not more than 30kVA; or

(c) where the system installed at the premises is a system, or replaces a system, in relation to which there is an application, accepted before the transition day by the distributor in respect of the premises, for –

(i) connection of the system to the distribution network by the distributor; or

(ii) approval to upgrade or replace that system and have it be, or remain, connected to the network –

the system is not capable of generating more electricity than was specified in that application.

44C. Standard feed-in tariff customers

For the purposes of this Act, a person is a standard feed-in tariff customer in respect of premises if –

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- (a) the person is, in relation to the premises, a small customer of an authorised retailer; and
- (b) the premises are situated on mainland Tasmania; and
- (c) a qualifying system in relation to the premises is installed at the premises and connected to the distribution network by the distributor in respect of the premises; and
- (d) the person is not a transitional feed-in tariff customer in respect of the premises.

44D. Transitional feed-in tariff customers

- (1) For the purposes of this Act, a person is a transitional feed-in tariff customer in respect of premises if –
 - (a) the person is, in relation to the premises, a small customer of an authorised retailer; and
 - (b) the premises are situated on mainland Tasmania; and
 - (c) the person was, immediately before the transition day –

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- (i) a customer, in respect of the premises, of an authorised retailer; or
 - (ii) a spouse of a customer, in respect of the premises, of an authorised retailer; and
- (d) a qualifying system in relation to the premises is installed at the premises and connected to the distribution network by the distributor in respect of the premises; and
- (e) the customer, or a spouse of the customer, is a recognised applicant in respect of the premises; and
- (f) the person has not ceased, after the transition day, to be, in respect of the premises, a customer of an authorised retailer, except if –
- (i) the person has so ceased in order to become, in respect of the premises, a customer of another authorised retailer; or
 - (ii) the person's spouse has become a customer, of the authorised retailer, in

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respect of the premises;
and

(g) 31 December 2018 has not expired.

(2) For the purposes of subsection (1)(e), a customer, or a spouse of the customer, is a recognised applicant in respect of premises if –

(a) an accurately completed application –

(i) that relates to the premises; and

(ii) that is for a qualifying system to be connected to the distribution network; and

(iii) that is in a form approved, by the distributor in respect of the premises, for use before the transition day –

is received, before the transition day, from the customer, or the spouse of the customer, by the distributor and is accepted by the distributor; and

(b) a qualifying system in relation to the premises is installed and

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connected at the premises before
31 August 2014.

- (3) A feed-in tariff customer in respect of premises –
- (a) who is, immediately before 1 January 2019, a transitional feed-in tariff customer in respect of the premises; and
 - (b) who receives, or is to receive, an electricity account in respect of the premises for a billing period in relation to the premises that begins before, and expires after, 1 January 2019 –

is to be taken, for the purposes only of ensuring that the customer is entitled to receive the feed-in tariff billing amount that would be payable in respect of that billing period if the customer were a transitional feed-in tariff customer, to be a transitional feed-in tariff customer in respect of the premises, for so much of the billing period as expires before 1 January 2019.

44E. Authorised retailers to pay feed-in tariffs and provide feed-in tariff supply statements

- (1) An authorised retailer in respect of premises must ensure that a feed-in tariff supply statement, in respect of a billing

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period in relation to the premises, is sent to a feed-in tariff customer in respect of the premises, if, in the billing period, electricity is supplied to the distribution network in respect of the premises by a qualifying system installed at the premises.

Penalty: Fine not exceeding 50 penalty units.

- (2) An authorised retailer must pay, to a customer of the retailer who is a feed-in tariff customer in respect of premises, the feed-in tariff billing amount, if any, in respect of a billing period in relation to the premises.

Penalty: Fine not exceeding 100 penalty units.

- (3) The feed-in tariff billing amount in respect of a billing period in relation to premises is the amount calculated by multiplying, by the feed-in tariff rate that applies in respect of the premises under section 44F in relation to the kilowatt hour, each kilowatt hour of electricity that is, during the billing period, supplied to the distribution network by a qualifying system that is –
- (a) installed at the premises; and

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- (b) connected to the distribution network by the distributor in respect of the premises.
- (4) Nothing in this Division is to be taken to prevent an authorised retailer from paying to a customer in respect of premises a greater amount for the supply of electricity from the premises than the authorised retailer is required to pay under this section, but such a greater amount is not to be taken to be –
 - (a) any part of the feed-in tariff billing amount in relation to the premises; or
 - (b) any part of the amount that a distributor is required to pay to an authorised retailer under section 44I.
- (5) An authorised retailer is to pay the feed-in tariff billing amount in respect of premises in the prescribed manner.

Penalty: Fine not exceeding 100 penalty units.

- (6) An authorised retailer is not required under subsection (2) to pay to a feed-in tariff customer in respect of premises the feed-in tariff billing amount in respect of the premises for more than one qualifying system installed at the premises.

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- (7) If more than one qualifying system is installed at premises –
- (a) a feed-in tariff customer in respect of the premises may notify the distributor in respect of the premises as to which qualifying system is to be taken to be the only qualifying system in relation to the premises; and
 - (b) the qualifying system specified in the notice is to be taken to be the only qualifying system in relation to the premises.

44F. Feed-in tariff rates

- (1) If a transitional feed-in tariff customer in respect of premises is a residential customer in respect of the premises, the feed-in tariff rate that applies in respect of the premises is 28.283 cents in relation to a kilowatt hour.
- (2) If a transitional feed-in tariff customer in respect of premises is a small business customer in respect of the premises and the billing period to which the rate is to apply is a quarterly billing period, the feed-in tariff rate that applies in respect of the premises is –
- (a) 38.577 cents in relation to each kilowatt hour that is within the

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first 500 kilowatt hours of electricity supplied, during the billing period, to the distribution network in respect of the premises by a qualifying system installed at the premises; or

(b) 28.319 cents in relation to each kilowatt hour that –

(i) is supplied, during the billing period, to the distribution network in respect of the premises by a qualifying system installed at the premises; and

(ii) is so supplied after the first 500 kilowatt hours of electricity are so supplied.

(3) If a transitional feed-in tariff customer in respect of premises is a small business customer in respect of the premises and the billing period to which the rate is to apply is not a quarterly billing period, the feed-in tariff rate that applies in respect of the premises is –

(a) 38.577 cents in relation to each kilowatt hour that –

(i) is supplied, during the billing period, to the distribution network in

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- respect of the premises by a qualifying system installed at the premises; and
 - (ii) is so supplied before the relevant generation threshold in relation to the billing period is reached; or
- (b) 28.319 cents in relation to each kilowatt hour of electricity that –
 - (i) is supplied, during the billing period, to the distribution network in respect of the premises by a qualifying system installed at the premises; and
 - (ii) is so supplied after the relevant generation threshold in relation to the billing period is reached.
- (4) For the purposes of subsection (3), the relevant generation threshold in relation to a billing period is reached when the number of kilowatt hours of electricity that is supplied during that billing period becomes equal to, or greater than, the number obtained by dividing the number

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of days in the billing period by 91 and multiplying by 500 the number obtained.

- (5) If a customer is a standard feed-in tariff customer in respect of premises, the feed-in tariff rate that applies in respect of the premises in relation to a kilowatt hour is the rate that –
- (a) is specified in, or determined under, a determination under section 44G that is in force at the time of the supply of the electricity, from the premises, for which the rate is to be applied in a calculation under section 44E(3); and
 - (b) under the determination, applies in respect of the premises in relation to the kilowatt hour.

44G. Feed-in tariff rate determinations

- (1) The Regulator must determine, for the purposes of section 44E(5), the feed-in tariff rate that applies in respect of premises in relation to a kilowatt hour.
- (2) The feed-in tariff rate in respect of premises in relation to a kilowatt hour may be a differential rate that varies according to either or both of the following:

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- (a) the class of premises;
 - (b) factors specified in the determination.
- (3) The feed-in tariff rate for standard feed-in tariff customers may be expressed as –
- (a) a rate in relation to a kilowatt hour; or
 - (b) a method for determining a rate in relation to a kilowatt hour.
- (4) The Regulator may amend or revoke a determination under subsection (1).
- (5) The regulations may make provision in relation to –
- (a) the making of determinations under this section; and
 - (b) the amending or revoking of determinations under this section; and
 - (c) the making of adjustments to determinations made under this section; and
 - (d) the charging to an electricity entity, or an authorised retailer, of costs incurred by the Regulator in exercising the Regulator’s powers under this Division or the regulations.

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- (6) The regulations may provide that the first determination to be made under subsection (1) is to be consistent with the recommendation, as to the rate to be paid by authorised retailers, that is made by the Regulator in the relevant report.
- (7) For the purposes of subsection (6), the relevant report is the report, made by the Regulator before the day on which this section commences, pursuant to a request, made to the Regulator by the Minister, for the Regulator to recommend the rate to be paid by authorised retailers to small customers in respect of premises from which electricity is supplied to a distribution network by a system –
 - (a) for the generation of electricity by solar, wind or water power; and
 - (b) that has –
 - (i) for a system that has a single-phase inverter, a total generation capacity of not more than 10kVA; or
 - (ii) for a system that has a 3-phase inverter, a total generation capacity of not more than 30kVA.

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- (8) A determination made under this section remains in force for the period determined in accordance with the regulations.
- (9) If the regulations make provision in relation to the making, amendment or revocation of a determination under this section, a determination under this section that is to be made, amended or revoked is to be, respectively, made, amended or revoked in accordance with the regulations.

44H. Principles to be taken into account in making feed-in tariff rate determinations

- (1) In determining a feed-in tariff rate under section 44G, the Regulator must consider the following matters:
 - (a) the fair and reasonable value to authorised retailers of electricity supplied to the distribution network by feed-in tariff customers;
 - (b) the net financial benefit, to authorised retailers, of electricity supplied to the distribution network by feed-in tariff customers, having regard to the costs of authorised retailers, including, but not limited to including –

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- (i) the costs to authorised retailers of purchasing wholesale electricity; and
 - (ii) other costs of authorised retailers in operating their retail electricity businesses;
- (c) the other costs, or other benefits, that –
 - (i) the Regulator considers relevant, including, but not limited to including, those related to the distribution networks or transmission networks; and
 - (ii) result, either directly or indirectly –
 - from the supply of electricity to distribution networks by qualifying systems at premises of small customers;
- (d) the COAG National Principles for Feed-in Tariff Arrangements, as those Principles apply from time to time;
- (e) any arrangements of the Commonwealth, whether legislative or otherwise, in

relation to the pricing of carbon emissions or other mechanisms to reduce the use of carbon-emitting fuels;

- (f) the principle that the feed-in tariff rate specified in the determination should not have the effect that any customer would effectively be cross-subsidising any other customer;
- (g) such approaches, methodologies, findings or recommendations, taken or made in other jurisdictions, as the Regulator thinks fit, for determining fair and reasonable feed-in tariff rates;
- (h) any prescribed matters;
- (i) any other matter the Regulator thinks relevant.

44I. Distributors to reimburse authorised retailers for difference between rates

- (1) If an authorised retailer pays to a transitional feed-in tariff customer a feed-in tariff billing amount in respect of premises, the amount equal to the difference between –

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- (a) the feed-in tariff billing amount paid by the authorised retailer to the customer; and
- (b) the feed-in tariff billing amount in respect of the premises that would have been paid to the customer under section 44E(2) by the authorised retailer if the transitional feed-in tariff customer had been a standard feed-in tariff customer in respect of the premises –

is a debt due and payable to the authorised retailer by the distributor in respect of the premises.

- (2) An amount of a debt due and payable by a distributor to an authorised retailer under subsection (1) may be paid –
 - (a) by way of a deduction of the amount of the debt from the amount of any network charges that are payable to the distributor by the authorised retailer; or
 - (b) in a manner agreed between the distributor and an authorised retailer; or
 - (c) in a manner approved by a court in which the debt is recovered under subsection (3).

- (3) A debt that is due and payable under subsection (1) to an authorised retailer by a distributor may be recovered in a court of competent jurisdiction.

44J. Report and recording obligations of distributors

- (1) A distributor in respect of premises must keep an accurate record of the matters, relating to feed-in tariff customers, that are prescribed in regulations for the purposes of this subsection.
- (2) A distributor in respect of premises must, within the period specified in regulations for the purposes of this subsection, provide to the Regulator a report containing the matters prescribed in such regulations.
- (3) A distributor in respect of premises must, if a person becomes, or has ceased to be, a customer, of an authorised retailer, who is a transitional feed-in tariff customer in respect of the premises, advise –
 - (a) the customer; and
 - (b) each authorised retailer who has become, or has ceased to be, the authorised retailer in respect of such a customer in relation to those premises –

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that the customer has become, or has ceased to be, respectively, a transitional feed-in tariff customer in respect of the premises.

8. Section 121AA amended (Costs of transfer of prepayment meter customers recoverable from distributor)

Section 121AA of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “costs” and substituting “relevant costs”;
- (b) by omitting from subsection (1)(a) “the termination” and substituting “a relevant termination”;
- (c) by inserting in subsection (1)(b) “(unless otherwise agreed between the distributor and the authorised retailer)” after “being”;
- (d) by inserting the following subsections after subsection (1):
 - (1A) For the purposes of subsection (1)(a), the relevant costs incurred by an authorised retailer in relation to a relevant termination are the costs charged to the retailer by the distributor for the removal or reconfiguration of a prepayment meter system

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installed at the premises to which the relevant termination relates.

- (1B) For the purposes of subsection (1)(a), a relevant termination is a termination, of a prepayment meter market retail contract in relation to a prepayment meter of the prescribed type installed at premises, by a customer –
- (a) who has received from an authorised retailer a notice of the variation of the tariffs and charges in relation to the prepayment meter market retail contract; and
 - (b) who has, within 20 days of receiving the notice referred to in paragraph (a), given, under the National Energy Retail Rules, notice to the authorised retailer of the customer's intention to terminate the prepayment meter market retail contract; and
 - (c) who has, subsequent to the termination of the prepayment meter market

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retail contract, entered into a standard retail contract in relation to the premises; and

- (d) who has not previously terminated a prepayment meter market retail contract in relation to a prepayment meter system of the prescribed type installed at the premises.

9. Repeal of Act

This Act is repealed on the three-hundred and sixty fifth day from the day on which all of the provisions of this Act commence.