PARLIAMENT OF VICTORIA

Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Bill 2013

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Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Bill 2013


The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

(a) to amend the Electricity Industry Act 2000 in relation to general renewable energy feed-in terms and conditions; and

(b) to amend the Electricity Safety Act 1998 to widen the scope of an offence relating to the installation of electrical equipment and to
create a new offence relating to the carrying out of electrical equipment work; and

(c) to amend the **Energy Safe Victoria Act 2005** to allow Energy Safe Victoria to provide information it holds to the Australian Energy Regulator for the purposes of the Australian Energy Regulator's functions, duties and powers under the National Electricity (Victoria) Law and the National Gas (Victoria) Law; and

(d) to amend the **Gas Safety Act 1997** to create a new offence prohibiting building work at a premises that a person knows or should reasonably be expected to know will make a gas installation or building at the premises unsafe; and

(e) to amend the **Victorian Energy Efficiency Target Act 2007** so that retailers that supply a small number of large customers are no longer exempt from energy efficiency targets; and

(f) to make minor and consequential amendments to those Acts.

2 **Commencement**

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act does not come into operation before 1 March 2014, it comes into operation on that day.
PART 2—AMENDMENT OF ELECTRICITY INDUSTRY ACT 2000

3 Definitions—Division 5A of Part 2

(1) In section 40F(1) of the Electricity Industry Act 2000, in the definition of referred terms and conditions, for "or premium solar feed-in tariff terms" substitute "premiun solar feed-in tariff terms and conditions or TFiT scheme terms and conditions".

(2) In section 40F(1) of the Electricity Industry Act 2000, in the definition of small renewable energy generation facility, after "generating facility" (where second occurring) insert "that is connected to a distribution system under the premium solar feed-in tariff scheme or TFiT scheme".

(3) In section 40F(1) of the Electricity Industry Act 2000 insert the following definitions—

"premium solar feed-in tariff scheme" means the amendments made to this Division by the Electricity Industry Amendment (Premium Solar Feed-in Tariff) Act 2009;

"TFiT scheme" means the amendments made to this Division by the Electricity Industry Amendment (Transitional Feed-in Tariff Scheme) Act 2011;"

(4) In section 40F(2) of the Electricity Industry Act 2000, omit "(other than through the utilisation of energy created from the combustion of fossil fuel or materials or waste products derived from fossil fuels)".

s. 3
Part 2—Amendment of Electricity Industry Act 2000

4 Meaning of general renewable energy feed-in terms and conditions

At the end of section 40FB of the Electricity Industry Act 2000 insert—

"(2) Without limiting subsection (1), on and after the commencement of section 4 of the Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013, general renewable energy feed-in terms and conditions must, as a minimum, include terms and conditions under which—

(a) an amount, specified under section 40FBA, is credited against the charges payable to the relevant licensee by a customer who is a relevant generator for electricity the licensee supplies to the customer (a general renewable energy credit); and

(b) a general renewable energy credit that arises during a period of supply of electricity to that customer is included in the electricity bill of that customer that relates to that period of supply; and

(c) if, in a period of supply of electricity to the customer, a general renewable energy credit exceeds the amount owed by that customer for electricity supplied to that customer in that period of supply, the excess general renewable energy credit amount is—

(i) credited against the charges payable to the relevant licensee by that customer for electricity the licensee supplies to that customer in the next period of supply of electricity to that customer; and
(ii) included in that customer’s electricity bill that relates to that period of supply of electricity; and

(d) any excess general renewable energy credit amount referred to in paragraph (c) is extinguished on the day the contract for the supply of electricity by the relevant licensee to the customer ends.”.

5 New sections 40FBA and 40FBB inserted

After section 40FB of the Electricity Industry Act 2000 insert—

"40FBA Rates for purchases of small renewable energy generation electricity

For the purposes of section 40FB(2)(a), the amount to be credited against the charges payable to a relevant licensee by a customer who is a relevant generator is—

(a) during the period beginning on the day section 5 of the Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013 comes into operation and ending on 31 December 2013—$0.08 per kilowatt-hour; and

(b) in each calendar year for the period commencing 1 January 2014, determined at—

(i) the rate for that year determined by the Commission under section 40FBB; or

(ii) if the Commission has not determined a rate under section 40FBB for the year—the rate that
s. 6 applied immediately before the commencement of that year.

**40FBB Commission to determine rate for purchases of small renewable energy generation electricity**

(1) The Commission may determine a rate for the purposes of section 40FBA(b)(i).

(2) A rate that is determined under subsection (1) must be determined not later than 31 August in the year preceding the year in which it is to apply and published in the Government Gazette not later than that date.

(3) In making a determination for the purposes of section 40FBA(b)(i), the Commission must have regard to—

   (a) prices of electricity in the wholesale electricity market; and

   (b) any distribution and transmission losses avoided in Victoria by the supply of small renewable energy generation electricity.

(4) A determination of the Commission under this section is not a determination for the purposes of the **Essential Services Commission Act 2001**.

**6 Meaning of premium solar feed-in tariff period**

For section 40FC(2)(b) of the **Electricity Industry Act 2000** substitute—

"(b) ending on—

(i) the fifteenth anniversary of the scheme start day; or

(ii) if, after 31 December 2012, the customer modifies their qualifying solar energy generating facility so that its
 installed or name-plate generating capacity is more than its capacity on 31 December 2012, the later of—

(A) the day on which section 6 of the

Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013 comes into operation; or

(B) the day on which that

modification is made—

whichever occurs first.”.

7 Meaning of TFiT scheme period

For section 40FCA(2)(b) of the Electricity Industry Act 2000 substitute—

"(b) ending on—

(i) the fifth anniversary of the TFiT scheme start day; or

(ii) if, after 31 December 2012, the customer modifies their TFiT scheme generating facility so that its installed or name-plate generating capacity is more than its capacity on 31 December 2012, the later of—

(A) the day on which section 7 of the

Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013 comes into operation; or

(B) the day on which that

modification is made—

whichever occurs first.”.
8 Repeal of redundant definitions

Sections 40FE(3) and 40FEA(3) of the Electricity Industry Act 2000 are repealed.

9 New section 40GA inserted

After section 40G of the Electricity Industry Act 2000 insert—

"40GA Unilateral variation of general renewable energy feed-in terms and conditions prohibited

(1) This section applies to a contract for the purchase by a relevant licensee of small renewable energy generation electricity from a relevant generator that is entered into before 1 January 2013.

(2) Despite anything to the contrary in the contract, the contract cannot be varied to include terms and conditions equivalent to or the same as those specified under section 40FB(2) without the agreement in writing of both parties to the contract."

10 When do published feed-in offers take effect?

(1) In section 40H(1) of the Electricity Industry Act 2000 omit "unless they are referred terms and conditions".

(2) After section 40H(1) of the Electricity Industry Act 2000 insert—

"(1A) Subsection (1) does not apply to referred terms and conditions that have been referred to the Commission for assessment within 2 months after they are published under section 40FF, 40FG or 40G.".

(3) In section 40H(2) and (3) of the Electricity Industry Act 2000, after "conditions" (where first occurring) insert "referred to in subsection (1A)".
11 Reference of small renewable energy generation
electricity feed-in offers to Commission

Section 40I(2) of the Electricity Industry
Act 2000 is repealed.
PART 3—AMENDMENT OF ELECTRICITY SAFETY ACT 1998

12 Safety of electrical installations

For section 43(1) of the Electricity Safety Act 1998 substitute—

"(1) A person must not install any electrical equipment if the person knows or should reasonably be expected to know that—

(a) the electrical equipment is unsafe or will be unsafe if connected to an electricity supply; or
(b) the installation will make any other electrical equipment unsafe if connected to an electricity supply; or
(c) the installation will make a building or structure unsafe if that building or structure is supplied with electricity.

Penalty: 40 penalty units.

(1A) A person must not carry out electrical equipment work if the person knows or should reasonably be expected to know that—

(a) the work will make electrical equipment unsafe if connected to an electricity supply; or
(b) the work will make a building or structure unsafe if that building or structure is supplied with electricity.

Penalty: 40 penalty units.".

See:
PART 4—AMENDMENT OF ENERGY SAFE VICTORIA ACT 2005

13 New section 7A inserted

After section 7 of the Energy Safe Victoria Act 2005 insert—

"7A Provision of information and assistance by Energy Safe Victoria to the AER

(1) Despite any other Act or law (other than the Charter of Human Rights and Responsibilities Act 2006), Energy Safe Victoria is authorised, on its own initiative or at the request of the AER, to provide the AER with such information (including information given in confidence) in the possession or control of Energy Safe Victoria that is reasonably required by the AER to perform a function or duty or exercise a power under the National Electricity (Victoria) Law or the National Gas (Victoria) Law.

(2) Nothing done, or authorised to be done, by Energy Safe Victoria in acting under subsection (1)—

(a) constitutes a breach of, or default under, an Act or other law; or

(b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or

(c) constitutes a breach of a duty of confidence (whether arising by contract, in equity, by custom or in any other way); or

(d) constitutes a civil or criminal wrong; or
(e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation or gives rise to any other right or remedy; or

(f) releases a surety or any other obligee wholly or in part from an obligation.

(3) In this section, \textit{AER} means the Australian Energy Regulator established by section 44AE of the Competition and Consumer Act 2010 of the Commonwealth.". 
Part 5—Amendment of Gas Safety Act 1997

PART 5—AMENDMENT OF GAS SAFETY ACT 1997

14 Functions of Energy Safe Victoria

After section 10(j) of the Gas Safety Act 1997 insert—

"(ja) to monitor and enforce compliance with this Act and the regulations;".

15 New section 79DA inserted

After section 79D of the Gas Safety Act 1997 insert—

"79DA Safety of gas installations—building work

(1) A person must not carry out building work at a premises which the person knows or should reasonably be expected to know will make—

(a) a gas installation at the premises unsafe; or

(b) a building at the premises unsafe if that premises is supplied with gas.

Penalty: In the case of a natural person, 40 penalty units;

In the case of a body corporate, 200 penalty units.

(2) In this section—

building work has the same meaning as in the Building Act 1993.".
PART 6—AMENDMENT OF VICTORIAN ENERGY EFFICIENCY TARGET ACT 2007

16 New definition of relevant entity substituted

In section 3(1) of the Victorian Energy Efficiency Target Act 2007, for the definition of relevant entity substitute—

"relevant entity means a person—

(a) who sells either electricity or gas, or both electricity and gas, to customers; and

(b) who makes a scheme acquisition in connection with the sale of either electricity or gas, or the sale of both electricity and gas, to customers; and

(c) who—

(i) has 5000 or more customers to whom either electricity or gas is, or both electricity and gas are, sold to in Victoria; or

(ii) makes a scheme acquisition of 30 000 MWh or more of electricity; or

(iii) makes a scheme acquisition of 350 000 GJ or more of gas—

but does not include a person prescribed not to be a relevant entity for the purposes of this Act;".

17 Who may create a certificate?

After section 16(2) of the Victorian Energy Efficiency Target Act 2007 insert—

"(2A) If a prescribed activity is undertaken in relation to public lighting, the person responsible for the payment for the
Part 6—Amendment of Victorian Energy Efficiency Target Act 2007

5 electricity or gas supplied for public lighting purposes is taken to be the consumer of electricity or gas in respect of whom that activity is undertaken for the purposes of subsection (1)(a)."

18 New section 17 substituted

For section 17 of the *Victorian Energy Efficiency Target Act 2007* substitute—

"17 When can a certificate be created?

(1) A certificate can only be created if the prescribed activity has been undertaken on or after the commencement of the VEET scheme and before 1 January 2030.

(2) A certificate must be created not later than 6 months after the end of the year in which the reduction in greenhouse gas emissions that results from the prescribed activity occurs.

(3) Regulations made under section 75 may—

(a) specify for the purposes of subsection (1) when a prescribed activity is to be taken to have been undertaken;

(b) specify for the purposes of subsection (2) when a reduction in greenhouse gas emissions is taken to have occurred with respect to a prescribed activity;

(c) specify whether an accredited person must create all certificates in respect of a prescribed activity at the same time;

(d) prescribe conditions or circumstances under which a certificate cannot be created.".
19 Offences relating to creation of certificates

For section 20(5) of the Victorian Energy Efficiency Target Act 2007 substitute—

"(5) An accredited person must not create a certificate in respect of a reduction in greenhouse gas emissions resulting from a prescribed activity if the accredited person—

(a) has previously created a valid certificate under this Act in respect of that reduction in greenhouse gas emissions; or

(b) has knowledge that another person has previously created a valid certificate under this Act in respect of that reduction in greenhouse gas emissions.

Penalty: 60 penalty units in the case of an individual;

240 penalty units in the case of a body corporate.".

20 Form and content of certificates

After section 21(2)(d) of the Victorian Energy Efficiency Target Act 2007 insert—

"(da) the date on which the reduction in greenhouse gas emissions resulting from the prescribed activity occurred;".

21 Regulations

For section 75(2)(f) of the Victorian Energy Efficiency Target Act 2007 substitute—

"(f) may apply, adopt or incorporate, with or without modification, any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
(i) as formulated, issued, prescribed or published at the time when the regulation is made or any time before the regulation is made; or

(ii) as formulated, issued, prescribed or published from time to time;".

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PART 7—REPEAL OF AMENDING ACT

22 Repeal of amending Act

This Act is repealed on 1 March 2015.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
ENDNOTES