

# Renewable Energy Feed-in Tariff (REFiT WA) Bill 2010

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Western Australia

LEGISLATIVE COUNCIL

*(Introduced by Hon. Robin Chapple, MLC)*

**Renewable Energy Feed-in Tariff (REFiT WA)  
Bill 2010**

**A Bill for**

**An Act to facilitate power industry development and employment,  
and to improve energy security by diversifying fuel sources, through  
the commercialisation of renewable energy technologies in Western  
Australia.**

The Parliament of Western Australia enacts as follows:

1

## **Part 1 — Preliminary**

2

### **1. Short title**

3

This is the *Renewable Energy Feed-in Tariff (REFiT WA) Act 2010*.

4

5

### **2. Commencement**

6

This Act comes into operation 28 days after the day on which it receives the Royal Assent.

7

1 **Part 2 — A Renewable Energy Feed-in Tariff for WA**

2 **3. Object of this Act**

3 The object of this Act is to support the commercialisation of  
4 renewable energy technologies in order to minimise WA's  
5 contribution to human-induced climate change, and to enhance  
6 energy security through energy diversity by —

- 7 (a) granting operators of both small and large scale  
8 qualifying generators the right to connect their  
9 qualifying generators to the electricity network and to  
10 supply the electricity network with electricity generated  
11 from renewable energy sources; and
- 12 (b) requiring electricity network operators to provide a  
13 reasonable return on investment to operators of  
14 qualifying generators for the electricity which they  
15 produce from renewable energy sources.

16 **4. Terms used in this Act**

17 In this Act, unless the contrary attention appears —

18 **certificate** means a renewable energy certificate created under  
19 Division 4 of Part 2 of the *Renewable Energy (Electricity)*  
20 *Act 2000* (Cth);

21 **kWh** means kilowatt hour;

22 **network** means a transmission system as defined in section 3 of  
23 the *Electricity Industry Act 2004* or distribution system as  
24 defined in the same section;

25 **network operator** means an operator of a network, namely the  
26 Electricity Networks Corporation as defined in section 3 of the  
27 *Electricity Industry Act 2004* or the Regional Power  
28 Corporation as defined in the same section;

29 **qualifying generator** means an accredited power station under  
30 the *Renewable Energy (Electricity) Act 2000* (Cth), provided  
31 that power station generates electricity from a source listed in  
32 section 5 of this Act; and

1 *retailer* means a person that holds a retail licence under the  
2 *Electricity Industry Act 2004*.

3 **Division 1 — Feed-in Tariff Scheme**

4 **5. Eligible Renewable Energy Sources**

5 (1) The following energy sources are eligible renewable energy  
6 sources:

- 7 (a) hydro;
- 8 (b) wave;
- 9 (c) tide;
- 10 (d) ocean;
- 11 (e) wind;
- 12 (f) solar;
- 13 (g) geothermal-aquifer;
- 14 (h) hot dry rock;
- 15 (i) energy crops;
- 16 (j) wood waste;
- 17 (k) agricultural waste;
- 18 (l) waste from processing of agricultural products;
- 19 (m) food waste;
- 20 (n) food processing waste;
- 21 (o) bagasse;
- 22 (p) black liquor;
- 23 (q) biomass-based components of municipal solid waste;
- 24 (r) landfill gas; and
- 25 (s) sewage gas and biomass-based components of sewage.

26 (2) Despite subsection (1), the following energy sources are not  
27 eligible renewable energy sources:

- 28 (a) fossil fuels;

- 1           (b) materials or waste products derived from fossil fuels; or  
2           (c) biomass sourced from clearing or harvesting of native  
3           vegetation.
- 4       (3) For the purposes of this Act, regulations may be made to  
5       provide that an energy source referred to in subsection (1) or (2)  
6       has the meaning prescribed by the regulations.
- 7       (4) For the purposes of this Act, regulations may be made to  
8       provide for reasonable limits to the meaning of an energy source  
9       referred to in subsection (1).
- 10      (5) For the purposes of this Act, regulations may be made to  
11      provide for reasonable extensions to the meaning of an energy  
12      source referred to in subsection (2).
- 13      **6. New conditions on the licence of a network operator**
- 14      (1) Subject to this section, it is a condition of the licence of a  
15      network operator that the network operator must, on application  
16      by an operator of a qualifying generator:
- 17          (a) with priority over all alternative sources of electricity  
18          that do not wholly involve eligible renewable energy  
19          sources, connect the qualifying generator to their  
20          network;
- 21          (b) with priority over all alternative sources of electricity  
22          that do not wholly involve eligible renewable energy  
23          sources, transmit the electricity generated by the  
24          qualifying generator into their network; and
- 25          (c) pay, for the electricity generated into their network, the  
26          relevant feed-in tariff in accordance with this Act.
- 27      (2) A network operator may refuse to connect the qualifying  
28      generator and transmit the electricity according to  
29      paragraphs (1)(a) and (b) if they prove that the qualifying  
30      generator does not comply with any relevant technical, safety or  
31      other requirement, whether prescribed for the purposes of this  
32      Act or imposed by any other law.

- 1 (3) Without limiting the generality of subsection (2), a network  
2 operator may refuse to pay the feed-in tariff according to  
3 paragraph (1)(c) if they prove that the qualifying generator has  
4 not:
- 5 (a) provided its registration number and the unique  
6 identification code of the qualifying generator according  
7 to sections 12 and 16 of the *Renewable Energy*  
8 *(Electricity) Act 2000* (Cth); or
- 9 (b) either transferred to a network operator the relevant  
10 certificates, or authorised a network operator to create  
11 the relevant certificates.
- 12 (4) A network operator also may refuse to connect the qualifying  
13 generator or transmit the electricity according to  
14 paragraphs (1)(a) and (b) if they prove that an operator of a  
15 qualifying generator has not installed a meter of a type  
16 prescribed by the regulations for the purposes of this subsection,  
17 to measure the total amount of electricity generated by the  
18 qualifying generator.

19 **7. Feed-in Tariff Rate Scheme**

- 20 (1) This section establishes the feed-in tariff rate scheme.
- 21 (2) The feed-in tariffs in this Act are to cover the prescribed costs  
22 of generation of the electricity plus a prescribed reasonable  
23 return on investment for any given technology of any given  
24 installed capacity and for any given site.
- 25 (3) The prescribed reasonable return on investment is to be  
26 calculated having regard to the interest rates for fixed long term  
27 deposits, thereby minimising the prospect of windfall profits.
- 28 (4) Each feed-in tariff is the rate that must be paid for all of the  
29 electricity generated into the network by the qualifying  
30 generator (*gross feed-in tariff*), not just the difference between  
31 the electricity produced and the electricity consumed by the  
32 operator of the qualifying generator.



- 1 (5) The feed-in tariff rates that apply from time to time are  
2 guaranteed for a period of 20 years from the date when the  
3 qualifying generator first produced electricity from renewable  
4 sources, and those rates are not subject to degression for that  
5 particular qualifying generator during that 20 year period.
- 6 (6) The period of 20 years in subsection (5) does not restart if the  
7 installed capacity of that qualifying generator is increased at any  
8 time after that qualifying generator is first commissioned.
- 9 (7) The feed-in tariff rates provided in section 8 do not include any  
10 GST.
- 11 (8) The feed-in tariff rates in section 8 include an assumed inflation  
12 rate.
- 13 Note: a significant, unexpected change in inflation may be addressed by the  
14 processes in section 11, and in particular section 11(2).
- 15 (9) The feed-in tariff rates in section 8 are inclusive of both  
16 certificates and capacity credits.

17 **8. Feed-in Tariff Rate Schedule**

- 18 (1) This section establishes the feed-in tariff rates derived from the  
19 application of the principles in section 7.

Category	Qualifying generator type	Installed capacity	Tariff (cents / kWh)	Annual degression (%)
(f) Solar				
	rooftop PV	30 kW or less	30	5
		>30 kW	25	5
	Ground-based PV	all scales	20	5
	Concentrating solar thermal	all scales	25	2
Bio energy	(i) energy crops;		15	2
	(j) wood waste;		15	2
	(k) agricultural waste;		15	2

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<b>Category</b>	<b>Qualifying generator type</b>	<b>Installed capacity</b>	<b>Tariff (cents / kWh)</b>	<b>Annual degredation (%)</b>
	(l) waste from processing of agricultural products;		15	2
	(m) food waste;		15	2
	(n) food processing waste;		15	2
	(o) bagasse;		15	2
	(p) black liquor;		15	2
	(q) biomass-based components of municipal solid waste;		15	2
	(r) landfill gas;		12	2
	(s) sewage gas and biomass-based components of sewage.		12	2
Hydrodynamic				
	(a) hydro	all scales	20	1
	(b) wave	all scales	22	1
	(c) tidal	all scales	18	1
	(d) ocean	all scales	18	1
(e) Wind Energy				
	high wind (class 1 machines)	500 kW or less	15	1
		>500 kW	13	1
	low wind (class 2 -3 machines)	<100 kW	17	1
		100 kW - 1 MW	16	1
		> 1 MW	15	1

Category	Qualifying generator type	Installed capacity	Tariff (cents / kWh)	Annual degredation (%)
Other				
	(h) hot dry rock	all scales	13	1
	(g) geothermal-aquifer	all scales	13	1

- 1       (2) Where subsection (1) requires that the electricity generated by  
2       that type of qualifying generator is purchased at a rate that  
3       depends on the installed capacity of the qualifying generator,  
4       the qualifying generator is paid rates that assume the output in  
5       the lowest installed capacity threshold is generated first, and  
6       then output in the next highest threshold, and so on until that  
7       generator’s actual output for the relevant time period is reached.
- 8       (3) For the purposes of determining the tariff to be paid for the most  
9       recently commissioned qualifying generator, a group of  
10       qualifying generators is deemed to be one qualifying generator  
11       (and section (2) applies accordingly) if:
- 12           (a) the group of qualifying generators is located on the same  
13           plot of land, or is all otherwise in close spatial  
14           proximity;
- 15           (b) the group of qualifying generators generate electricity  
16           from the same kind of renewable energy source;
- 17           (c) subsection (1) requires that the electricity generated by  
18           that type of qualifying generator is purchased at a rate  
19           that depends on the installed capacity of the qualifying  
20           generator; and
- 21           (d) all qualifying generators in the group were  
22           commissioned within a period of twelve consecutive  
23           months,
- 24       even if the group of qualifying generators in question are owned  
25       or operated by more than one person.

1 **9. Feed-in Tariff Rate Degression**

- 2 (1) The tariffs under section 8 only apply to qualifying generators  
3 commissioned between 1 January and 31 December 2011.
- 4 (2) In the case of qualifying generators commissioned in  
5 subsequent calendar years, the tariffs must be reduced  
6 degressively each year by the percentage indicated next to the  
7 relevant tariff in subsection 8(1).

8 **10. Feed-in Tariff Rate Payments**

- 9 (1) Unless subsection (2) applies, the operator of a qualifying  
10 generator must lodge with a network operator, within 14 days  
11 after the end of each month, a monthly return indicating the  
12 metered electricity produced, in kWh, by the qualifying  
13 generator during that month just passed.
- 14 (2) The operator of a qualifying generator may choose to lodge with  
15 a network operator, within 60 days after the end of each  
16 calendar year, an annual return indicating the metered electricity  
17 produced, in kWh, by the qualifying generator during that year  
18 just passed.
- 19 (3) It is a further new condition on the licence of a network operator  
20 that the network operator must pay the operator of a qualifying  
21 generator an amount equal to the metered electricity reported by  
22 operator of the qualifying generator under either subsections (1)  
23 or (2) multiplied by the feed-in tariff rate calculated under  
24 sections 8 and 9.
- 25 (4) Unless subsection (6) applies, it is a further new condition on  
26 the licence of a network operator that the network operator must  
27 pay the operator of a qualifying generator the amount referred to  
28 under subsection (3) within 14 days of receiving from the  
29 operator of the qualifying generator the return under  
30 subsection (1).
- 31 (5) Unless section (6) applies, it is a further new condition on the  
32 licence of a network operator that the network operator must

1            pay the operator of a qualifying generator the amount referred to  
2            under subsection (3) within 60 days of receiving from the  
3            operator of the qualifying generator the return under  
4            subsection (2).

5            (6) A network operator and the operator of the qualifying generator  
6            may agree on monthly advance payments calculated on the basis  
7            of the expected payment for the whole year, and subsequent  
8            annual reconciliation adjustments.

9            **11. Periodical Review of the Feed-in Tariff Rates**

10           (1) The Minister must carry out a review of the current feed-in tariff  
11           rates after five years have elapsed since the Act comes into  
12           operation, or five years after the last review as the case may be,  
13           analysing in particular to what extent, if any, the feed-in tariff  
14           rates will need to be adjusted having regard to section 7.

15           (2) The Minister may carry out a review of the current feed-in tariff  
16           rates at any other time if, and only if, there has been an  
17           unexpected and major change to the prescribed costs of  
18           generation of one or more of the types of qualifying generator in  
19           section 8(1) such that the feed-in tariff or tariffs for those  
20           qualifying generators have become seriously at variance with  
21           the tariffs that would result in a prescribed reasonable return on  
22           investment.

23           (3) In the event that a review under subsection (2) is undertaken,  
24           the Minister must give consideration to the possibility of  
25           maintaining the current feed-in tariffs and current rates of  
26           degression for projects for which planning and investment  
27           decisions have been significantly advanced on the assumption  
28           of the availability of those tariffs and degression rates.

29           (4) The Minister is to prepare a report based on the review carried  
30           out under this section, explaining among other things how the  
31           proposed revised feed-in tariff rates are calculated, and is to  
32           cause the report to be laid before each House of Parliament as  
33           soon as is practicable after the report is prepared.

- 1 (5) For the avoidance of doubt, the review and report process  
2 referred to in this section does not of itself have the effect of  
3 altering the rates in section 8(1), but instead those rates may  
4 only be altered by an Act amending this Act.

5 **Division 2 — Equalisation Scheme**

6 **12. Purpose of this Division**

7 The purpose of this division is to enable the contribution for  
8 funding the feed-in tariffs, paid to operators of qualifying  
9 generators in accordance with this Act, to be distributed equally  
10 among all retailers, including those that either do not or only  
11 partly use the South West interconnected system as defined in  
12 section 3 of the *Electricity Industry Act 2004*.

13 **13. Accounting**

14 (1) The network operators must record the electricity for which  
15 tariffs were paid in accordance with this Act, and settle the  
16 accounts with regard to the quantity of electricity, tariffs paid  
17 and certificates received pursuant to subsection (2) below.

18 (2) By 31 March of each year the network operators must determine  
19 the quantity of electricity which they transmitted and paid for,  
20 and the number of certificates they received or created in  
21 accordance with paragraph 6(3)(b), in the previous calendar  
22 year, and must determine the percentage share of these  
23 quantities in relation to the total quantity of electricity which  
24 was delivered to the final consumers in the area served by their  
25 network in the previous calendar year.

26 **14. Equalisation**

27 Network operators who had to pay higher feed-in tariffs than the  
28 average share, having regard to the matters in section 13(2), are  
29 entitled to receive financial compensation from the other  
30 network operators in exchange for the respective number of  
31 certificates until all network operators have contributed equally  
32 to the average share, taking into account the economic value of

1           the electricity that was fed into their respective networks by  
2           qualifying generators at the reference price.

3   **15.    Reference Price**

4       (1)   The Electricity Networks Corporation, as defined in section 3 of  
5       the *Electricity Industry Act 2004*, must sell the electricity fed  
6       into its network in accordance with this Act in a transparent and  
7       non-discriminatory way, and at the best achievable price.

8       (2)   The price realised in accordance with subsection (1) is the  
9       *reference price* for the purposes of section 14.

10  **16.    Reimbursement**

11       (1)   The retailers must reimburse their network operators for their  
12       contribution in funding the feed-in tariffs according to  
13       section 14 in exchange for the respective number of certificates  
14       until all retailers have contributed their equal share.

15       (2)   The share in subsection (1) is to be calculated in relation to their  
16       respective shares of the total electricity sold.

17       (3)   Notwithstanding any other Act, the retailers are entitled to pass  
18       on their subsection (1) contribution to their consumers relative  
19       to the consumers' electricity consumption.

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**Part 3 — Miscellaneous**

**17. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made for the matters dealt with in the following sections:
  - (a) section 6(3)(b);
  - (b) section 6(4); or
  - (c) Part 2 Division 2.
- (3) For the avoidance of doubt, the Governor may not make regulations which have the effect of altering the rates in section 8(1).

