



New South Wales

# Electricity Supply Amendment (Solar Bonus Scheme) Bill 2010

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to make the following changes with respect to the solar bonus scheme (being the scheme for the payment of electricity supplied to the network by small retail customers using complying generators):

- (a) reducing the tariff paid (from \$0.60 per kilowatt hour to \$0.20 per kilowatt hour) to new small retail customers who join the scheme,
- (b) stopping payments under the scheme to persons who join the scheme after the total generating capacity under the scheme has reached 300 megawatts,
- (c) providing for the provision of information by statutory declaration to prove a person's eligibility to have a credit recorded under the scheme,
- (d) requiring a person to provide notice of any change of circumstances that may affect the person's eligibility to have a credit recorded under the scheme,
- (e) changing the frequency at which distribution network service providers are to provide information about the scheme,
- (f) permitting a small retail customer to elect to receive a credit under the scheme for the net rather than the gross electricity supplied by the customer,

- (g) providing for 2 further reviews of the scheme by the Minister for Energy,
- (h) providing that compensation is not payable by the State in relation to the scheme or changes to the scheme.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act at the beginning of the day following the day on which this Bill is first introduced into Parliament.

## **Schedule 1      Amendment of Electricity Supply Act 1995 No 94**

**Schedule 1 [1]** reduces the rate at which a credit is recorded in respect of a small retail customer to \$0.20 (or such other amount as may be prescribed by the regulations) per kilowatt hour for electricity that is produced by a complying generator and supplied to the distribution network by the small retail customer.

**Schedule 1 [4]** permits the regulations to contain provisions of a savings or transitional nature consequent on the making of a regulation that prescribes a different amount. **Schedule 1 [10] and [11]** make consequential amendments.

**Schedule 1 [12]** provides that the old higher rate of \$0.60 per kilowatt hour continues to apply to electricity that a small retail customer supplies to the distribution network using any of the following:

- (a) a complying generator that was first connected to the distribution network before the commencement of the proposed Act,
- (b) a complying generator that was first connected to the distribution network after that commencement if:
  - (i) before that commencement the small retail customer concerned purchased or leased the generator or entered into a binding agreement to purchase or lease the generator, and
  - (ii) no later than 21 days after that commencement, the distribution network service provider received an application made by or on behalf of the small retail customer for the connection of the generator to the distribution network, and
  - (iii) any requirements of the regulations as to evidence to be provided in connection with the requirements above have been complied with,
- (c) a complying generator connected in circumstances prescribed by the regulations,
- (d) a complying generator that replaces a generator referred to above at the same premises that is of no greater capacity than the generator that is replaced.

However, that higher rate ceases to apply in respect of electricity produced by a generator if the capacity of the generator is increased. The higher rate also ceases to

apply, subject to the regulations, if there is a change in the person in respect of whom a credit is recorded for electricity produced by the generator.

**Schedule 1 [2] and [3]** require a distribution network service provider to provide information under section 15A (7) of the *Electricity Supply Act 1995* (the **Principal Act**) to the Minister for Energy (the **Minister**) and the Director-General of the Department of Industry and Investment at such times as may be prescribed by the regulations rather than on a 6 monthly basis.

**Schedule 1 [4]** permits the Director-General of the Department of Industry and Investment or a distribution network service provider to require a person to provide information by statutory declaration in order to determine the person's eligibility to have a credit recorded for electricity supplied to the distribution network. It also creates an offence (maximum penalty \$110,000) if a person fails to notify a distribution network service provider of any change in the person's circumstances that may affect the person's eligibility to have any such credit recorded by the provider. The notification is required to take place within 7 days after the change.

**Schedule 1 [4]** also permits the Minister to declare, by notice, that, as from a specified date, no payments will be made under the solar bonus scheme in respect of new applicants. A notice can be published only if the Minister is satisfied that the total generating capacity of all complying generators installed and connected under section 15A of the Principal Act has reached 300 megawatts. A distribution network service provider is not to record a credit, and a retail supplier is not to pay an amount, under the scheme in respect of electricity produced by a generator that is first connected to the distribution network on or after the date specified in any such notice.

**Schedule 1 [5]** provides for the repeal of section 34A of the Principal Act at the same time that section 15A of that Act is repealed.

**Schedule 1 [6]** provides that compensation is not payable by or on behalf of the State in relation to the enactment, making or operation of the *Electricity Supply Amendment (Solar Bonus Scheme) Act 2009* or the proposed Act (including a provision inserted into the Principal Act by either of those Acts and an instrument made under any such provision).

**Schedule 1 [7] and [8]** provide for 2 further reviews of the solar bonus scheme by the Minister. The first is to be undertaken as soon as possible after 1 July 2012 and is to consider whether the policy objectives of the scheme remain valid and whether the terms of the Principal Act remain appropriate for securing those objectives. The second is to be undertaken as soon as possible after 31 December 2016 and is to consider whether the scheme achieved its policy objectives.

**Schedule 1 [9]** permits the regulations to contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [12]** also permits a small retail customer to elect to receive a credit on a net basis for electricity that is produced by a complying generator and supplied to the distribution network by the small retail customer (that is, for electricity supplied to the distribution network in excess of that being used by the customer).



First print



New South Wales

# Electricity Supply Amendment (Solar Bonus Scheme) Bill 2010

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New South Wales

# Electricity Supply Amendment (Solar Bonus Scheme) Bill 2010

No. , 2010

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## A Bill for

An Act to amend the *Electricity Supply Act 1995* with respect to the solar bonus scheme (being the scheme for the payment of electricity supplied to the network by small retail customers using complying generators).

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Electricity Supply Amendment (Solar Bonus Scheme) Act 2010</i> .	3 4
<b>2 Commencement</b>	5
This Act is taken to have commenced at the beginning of the day following the day on which the Bill for this Act was first introduced into Parliament.	6 7 8



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**Schedule 1      Amendment of Electricity Supply Act  
1995 No 94**

**[1]      Section 15A Distribution network service providers to allow small  
renewable energy generators to feed-in to network**

Omit “\$0.60” from section 15A (5).

Insert instead “\$0.20 (or such other amount as may be prescribed by the regulations)”.

**[2]      Section 15A (7)**

Omit “a report within 28 days after 30 June and 31 December in each year that sets out”.

Insert instead “the following information at such times as may be prescribed by the regulations”.

**[3]      Section 15A (7) (d)**

Omit “each month for the 12 month period ending on 30 June or 31 December as the case may be”.

Insert instead “such periods as may be prescribed by the regulations”.

**[4]      Section 15A (8A)–(8F)**

Insert after section 15A (8):

(8A)    The Director-General or a distribution network service provider may, at any time, require a person to provide information by statutory declaration in order to determine the person’s eligibility to have a credit recorded in respect of the person under this section.

(8B)    A person must within 7 days after any change in the person’s circumstances (including any change to a generator on premises owned or occupied by the person) notify a distribution network service provider of that change if the change may cause the person to be no longer eligible to have a credit recorded (or to have a credit recorded at a particular rate) by the provider in respect of the person under this section.

Maximum penalty: 1,000 penalty units.

(8C)    The Minister may, by notice published in the Gazette, declare that as from a specified date, no payments will be made under the scheme established by this section in respect of new applicants.

Electricity Supply Amendment (Solar Bonus Scheme) Bill 2010

Schedule 1 Amendment of Electricity Supply Act 1995 No 94

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(8D)	The Minister may publish a notice under this section only if the Minister is satisfied that the total generating capacity of all complying generators installed and connected under this section has reached 300 megawatts.	1 2 3 4
(8E)	A distribution network service provider is not to record a credit under this section, and a retail supplier is not to pay an amount under section 34A, in respect of electricity produced by a generator that is first connected to the distribution network on or after the date specified in a notice under this section.	5 6 7 8 9
(8F)	The regulations may contain provisions of a savings or transitional nature consequent on the making of a regulation under subsection (5) or the publication of a notice under subsection (8C).	10 11 12 13
<b>[5]</b>	<b>Section 15A (9)</b>	14
	Omit “is”. Insert instead “and section 34A are”.	15
<b>[6]</b>	<b>Section 179A Compensation not payable</b>	16
	Insert after section 179A (1):	17
(1A)	Compensation is not payable by or on behalf of the State:	18
(a)	because of the enactment, making or operation of the <i>Electricity Supply Amendment (Solar Bonus Scheme) Act 2009</i> or the <i>Electricity Supply Amendment (Solar Bonus Scheme) Act 2010</i> (including a provision inserted in this Act by either of those Acts and an instrument made under any such provision), or	19 20 21 22 23 24
(b)	because of any consequence of any such enactment, making or operation, or	25 26
(c)	because of any statement or conduct relating to any such enactment, making or operation, or	27 28
(d)	because of any statement or conduct relating to the rate at which a credit would be recorded under the solar bonus scheme (being the scheme for the payment of electricity supplied to the network by small retail customers using complying generators), the persons who would be eligible to receive a credit under the scheme or the duration of the scheme.	29 30 31 32 33 34 35
<b>[7]</b>	<b>Section 195 Review of solar bonus scheme by Minister</b>	36
	Omit “or as soon as the Minister becomes aware that the total generating capacity of all complying generators reaches 50 megawatts, whichever occurs first” from section 195 (2).	37 38 39

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<b>[8] Section 195 (3) and (4)</b>	1
Omit section 195 (3). Insert instead:	2
(3) The Minister is also to conduct a final review of the scheme as soon as possible after 31 December 2016 to consider whether the scheme achieved its policy objectives.	3 4 5
(4) A report on the outcome of a review under this section is to be tabled in each House of Parliament.	6 7
<b>[9] Schedule 6 Savings, transitional and other provisions</b>	8
Insert at the end of clause 1 (1):	9
<i>Electricity Supply Amendment (Solar Bonus Scheme) Act 2010</i>	10
<b>[10] Schedule 6, clause 60 (1)</b>	11
Omit “of \$0.60 per kilowatt hour that is”.	12
<b>[11] Schedule 6, clause 60 (2)</b>	13
Omit “the rate of \$0.60”. Insert instead “a rate”.	14
<b>[12] Schedule 6, Part 11</b>	15
Insert after Part 10:	16
<b>Part 11 Provisions consequent on enactment of Electricity Supply Amendment (Solar Bonus Scheme) Act 2010</b>	17 18 19
<b>61 Complying generators connected before scheme closed</b>	20
(1) The rate at which a credit is to be recorded by a distribution network service provider in respect of electricity generated by a small retail customer is to be \$0.60 per kilowatt hour if the electricity is generated by a complying generator (including a generator that is taken to be a complying generator because of clause 60) that:	21 22 23 24 25 26
(a) was first connected to the distribution network before the commencement of the amending Act, or	27 28
(b) was first connected to the distribution network after that commencement and complies with the transitional requirements of subclause (2) for the \$0.60 per kilowatt hour rate, or	29 30 31 32
(c) is connected in circumstances prescribed by the regulations, or	33 34

(d)	replaces a generator referred to in paragraphs (a)–(c) at the same premises and is of no greater capacity than the generator that is replaced.	1 2 3
(2)	The following requirements are the transitional requirements for the \$0.60 per kilowatt hour rate for a generator first connected to a distribution network after the commencement of the amending Act:	4 5 6 7
(a)	before that commencement, the small retail customer concerned must have purchased or leased, or have entered into a binding agreement to purchase or lease, the generator,	8 9 10 11
(b)	no later than 21 days after that commencement, the distribution network service provider must have received an application made by or on behalf of the small retail customer for the connection of the generator to the distribution network,	12 13 14 15 16
(c)	any requirements of the regulations as to evidence to be provided in connection with the requirements of paragraphs (a) and (b) have been complied with.	17 18 19
(3)	This clause ceases to apply in respect of a complying generator if the capacity of the generator is increased after the commencement of the amending Act.	20 21 22
(4)	Subject to the regulations, this clause ceases to apply in respect of a complying generator (including a generator that replaces that generator) if there is a change, after the commencement of the amending Act, in the person in respect of whom the credit is recorded for electricity produced by the generator.	23 24 25 26 27
(5)	An agreement entered into by a small retail customer to purchase or lease a generator is a binding agreement for the purposes of this clause even if the agreement permits the small retail customer to terminate the agreement without penalty.	28 29 30 31
(6)	In this clause: <i>amending Act</i> means the <i>Electricity Supply Amendment (Solar Bonus Scheme) Act 2010</i> .	32 33 34
<b>62</b>	<b>Continuation of net metering schemes</b>	35
(1)	The obligation under section 15A of a distribution network service provider to record a credit for electricity produced by a complying generator and supplied to the distribution network is an obligation to record a credit for the net electricity supplied by the small retail customer (that is, for electricity supplied in excess	36 37 38 39 40

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|     | of that being used by the customer) if the small retail customer elects to have the credit recorded in that way.  | 1<br>2           |
| (2) | For the purposes of the operation of this clause (and the operation of section 15A in accordance with this clause), a net feed-in generator (within the meaning of clause 60) is taken to be a complying generator. | 3<br>4<br>5<br>6 |
| (3) | Nothing in this clause limits the operation of clause 60.   | 7                |