

ANTIGUA AND BARBUDA



RENEWABLE ENERGY ACT, 2015

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No. 6 of 2015

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[L.S.]



I Assent,

Sir Rodney Williams,
Governor-General.

15th April, 2015

**ANTIGUA AND BARBUDA
RENEWABLE ENERGY ACT, 2015**

No. 6 of 2015

AN ACT to establish legal, economic and institutional basis to promote the use of renewable energy resources and for connected matters.

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. Short title and Commencement

This Act may be cited as the Renewable Energy Act, 2015 and shall come into force on such date as the Minister may, by Notice Published in the *Gazette*, appoint.

2. Interpretation

(1) In this Act, unless the context otherwise requires-

“APUA” means the Authority in accordance with the Public Utilities Act Cap. 359;

“Authority” means any commission, board, committee, council or similar body established by any Act of Parliament or appointed by the Minister to carry out any functions and duties exercise any power prescribed under this Act;

“biomass” means non-fossil, bio degradable organic material originating from naturally occurring or cultured plants, animals and micro-organisms, including products from agriculture (including vegetal and animal substances), forestry and related industries, including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste;

“capacity” means the rated power output;

“consumer” means any person or entity receiving electricity from distribution or transmission network for the use of such person or entity;

“ECERA” means the Eastern Caribbean Energy Regulatory Authority, established by the Secretariat of the Organisation of Eastern Caribbean States;

“Feed In Tariff” means the tariff system for electricity produced from eligible renewable energy resources;

“eligible generating facility” means a facility using a renewable energy resources to generate electricity;

“Feed In Tariff Regulations” means any regulation made pursuant to this Act to establish the Feed In Tariff system and to regulate the method of establishing and approving the Feed In Tariffs;

“generation license” has the meaning given to it in the Public Utilities Act Cap. 359;

“geothermal energy” means energy stored in the form of heat beneath the surface of solid earth;

“grid” means a number of transmission and distribution systems linked together, as provided for under the Public Utilities Act;

“hybrid systems” means any power or energy generation facility which makes use of more than one fuel source with a minimum of ten percent of the annual energy output provided by renewable energy resources, including but not limited to integrated combined solar and wind systems, combined biomass and fossil fuel systems, combined hydro and fossil fuel systems, integrated solar and biomass systems, integrated wind and fossil fuel systems;

“hydropower” means water-based energy systems;

“installation technician” means a person who possesses the qualification and standard of technical competence established under section 14;

“Minister” means the Minister responsible for Energy;

“net billing” means a methodology under which electric energy generated by a person and delivered to the grid may be used to offset the cost of electric energy provided to that person by the Responsible Network Utility;

“OECS” means Organisation of Eastern Caribbean States;

“off-grid” means not connected to the grid;

“publicly notify” means publishing a notice –

(a) in the *Official Gazette*;

(b) in one or more daily newspapers circulating in Antigua and Barbuda; and

(c) on the internet in an electronic form that is publicly accessible;

and “public notification” has a corresponding meaning;

“registry” means a registry established by the Minister to monitor renewable energy facilities;

“renewable energy resources” means non-fossil sources of energy capable of use for the generation of electricity such as wind, solar, hydropower, biomass, geothermal and wave/tidal;

“Responsible Network Utility” means the holder of a distribution or transmission license granted by the Minister responsible for Public Utilities;

“wave/tidal” means a tidal bore which is a large movement of water formed by funnelling of the incoming tide to generate energy;

“Wheeling” means the transmission of electricity by an entity that does not own or directly use the power it is transmitting to retail customer; and

“Wheeling Fees” means a fee set by the Minister for the Wheeling of energy wheeled by a renewable generator.

(2) A word or phrase not specifically defined in this Act, but defined in the Public Utility Act Cap. 359 and not inconsistent with this Act shall have the meaning assigned to it by the Public Utility Act.

3. Purpose and Scope

(1) This Act shall establish the framework for the accelerated development and advancement of renewable energy resources.

(2) Within 180 days of the coming into force of this Act, the Minister shall by regulation prescribe middle and long- term national targets for the use of renewable energy resources in electricity generation, which may include targets related to geographic location and diversity, technology, total capacity and unit size.

(3) The Minister shall cause to be published annually in the *Gazette* or the appropriate website, a report of the frame work for accelerated development and advancement of renewable energy resources established under subsection (1), progress towards these targets, including a review of the performance of the incentives provided under this Act.

4. Ministerial Responsibilities

(1) The Minister shall, in carrying out his functions under this Act, take into consideration the primary objective of the Act, namely the use of renewable energy for generation of electricity.

(2) The Minister shall have the following functions under this Act:

- (a) to prescribe, from time to time, national targets for the use of renewable energy resources, as set out under section 3;
- (b) in collaboration with the Minister responsible for Finance, determine the type of equipment that may be eligible for tax exemption under section 9;
- (c) to carry out an environmental impact assessment of the use of biomass for the generation of energy in accordance with section 9;
- (d) to work with other relevant departments of Government and statutory authorities to prepare and co-ordinate in accordance with section 11, the licensing process for installations, using renewable energy resource and make such information available to potential developers;
- (e) to work with departments of Government, educational and training institutions to promote the implementation of educational programmes within the renewable energy sector;
- (f) to encourage the development of technical and standard requirements and certification of installations, using renewable energy resources, to ensure the quality of these systems especially in small scale installations, whether residential or commercial;
- (g) to maintain a register of persons certified eligible for the Feed In Tariff; and
- (h) to undertake such reporting duties as are required by this Act.

5. Cooperation with APUA and the Responsible Network Utility

(1) The Minister shall, from time to time, consult with the Minister of Public Utilities-

- (a) to ensure that the grid is safe and capable of receiving connections from installations generating electricity from renewable energy resources;
- (b) subject to subparagraph (a), to facilitate the connection of such installations in accordance with APUA interconnection policy;
- (c) to designate such officers as are qualified to undertake such reporting duties as are required by this Act, in particular section 14; and

(d) to ensure that the purchase of electricity generated from eligible renewable energy resources in accordance with the Feed In Tariff Regulations, under sections 4 and 5.

(2) In connection with the functions referred to in subsection (1), the Minister in consultation with the Minister of Public Utilities shall-

(a) develop a policy for the allocation of the cost of connection described in subsection (1), and submit the same to the Cabinet for approval.

(b) publish in the official *Gazette* the policy approved by the Commission;

(c) be under a duty to make connections in accordance with the policy developed under paragraph (a) and any regulations made under this Act; and

(d) be entitled to pass on to the final consumers, the costs incurred in discharging such functions.

6. Procurement or construction of electricity generation by renewable energy resources

For the purposes of accelerating the development of renewable energy resources, the Minister shall ensure that the process for the procurement or construction (by the Government, APUA or a Responsible Network Utility) of new electricity generation capacity is designed with a view to solicit proposals for generation using renewable energy resources.

7. Support for on-grid renewable electricity

(1) For the purpose of promoting the development of renewable energy resources, a tariff system for generating electricity from eligible renewable energy resources, including such portion of electricity from hybrid systems that is directly generated from eligible renewable energy resources shall be established.

(2) The Minister shall, by regulation, define eligibility for the Feed In Tariff.

(3) The Minister shall, within six months of the coming into force this Act, make regulations to govern the establishment of the Feed In Tariff system and regulate the method of approving the Feed In Tariffs.

(4) Without prejudice to the generality of subsection (2), the Minister may make regulations —

(a) requiring APUA or the Responsible Network Utility to pay the Feed In Tariff only on the basis of electricity generated from eligible renewable energy resources and delivered into the grid;

(b) prescribing the rules defining eligibility for the tariff;

- (c) prescribing that the hybrid systems receive only the Feed In Tariff for electricity generated from eligible energy resources.
- (d) providing that only a biomass which is considered sustainable by the biomass prescribed under section 9, shall be eligible;
- (e) providing the duration for power purchase agreements and standard contract terms in consultation with the Minister responsible for Public Utilities and with approval of the Cabinet.
- (f) establishing the principles and methodology for determining the Feed In Tariff level in consultation with the Minister responsible for Public Utility and with approval of the Cabinet which, shall reflect the anticipated capital and operating costs of different types and sizes of generation plant and allow investors a reasonable rate of return;
- (g) for the periodic review and amendment to the Feed In Tariff levels, taking into consideration changes in costs of new installations;
- (h) for fixing, from time to time, the Feed In Tariff payment during the term of the power purchase agreement and to make such adjustments as are considered necessary on the basis of a reasonable and fair indexation formula established by the Minister in consultation with the Minister responsible for Public Utility and with approval of the Cabinet;
- (i) establishing a mechanism providing for expediting connection to the grid for any electricity producer that is eligible under the Feed In Tariff Regulations;
- (j) providing for the priority purchase and transmission of, and payment for, such electricity that is eligible under the Feed In Tariff Regulations; and
- (k) for the enforcement of the regulatory provision relating to eligibility of equipment and persons.

(5) The Minister shall, in consultation with the Responsible Network Utility and with the approval of Cabinet, determine-

- (a) the maximum national capacity limit of electricity production that is eligible under the Feed In Tariff Regulations and to publish it in the Feed In Tariff Regulations; and
- (b) the fixed tariff rate to be paid for electricity produced from each type of renewable energy resource and the prescribed number of years, which shall not be less than fifteen years during which the fixed tariff rates shall apply.

(6) Subject to the safety and reliability of the electricity system, the Minister may review and revised the maximum national capacity limit determined under subsection (5).

(7) The Minister shall not apply changes made to the Feed In Tariff retroactively.

8. Establishment of Renewable Energy Fund

(1) For the purpose of this Act there is hereby established a special fund to be known as the Renewable Energy Fund.

(2) Sections 42 and 43 of the Finance Administration Act 2006, No. 23 of 2006 Act, shall apply to the Renewable Energy Fund.

(3) The Cabinet may authorize periodic transfers of moneys from the National Development Fund, created pursuant to the Antigua and Barbuda Citizenship by Investment Act into the Renewable Energy Fund.

(4) The Renewable Energy Fund shall be used for the following purposes-

- (a) to fund renewable energy projects approved by the Cabinet;
- (b) to fund research and development into renewable energy resources;
- (c) to procure goods and services for renewable energy projects; and
- (d) for any other purpose related to generation of renewable energy as the Cabinet may from time to time approve.

9. General incentives

(1) The operators of facilities using renewable energy resources, including hybrid systems in proportion to and to the extent of the renewable energy component, as duly certified by the Minister, shall be entitled to the following incentives-

- (a) exemption of registered projects resources from import duty on the actual plants, machinery and parts thereof imported for renewable energy generation for a period of five years;
- (b) waiver of customs duties payable on the importation of all plant, machinery, appliances, apparatus, equipment and materials for a project registered;
- (c) relief from the payment of corporate tax in favour of registered projects for a period of ten years; and
- (d) Exemption from ABST under the Antigua and Barbuda Sales Tax Act 2006 for a period of two years for a registered project utilizing the Feed In Tariff and Net Billing mechanism for the Sale of such electricity to the Responsible Network Utility.

(2) The Minister shall, by Order, publish in the *Gazette* any incentive granted under this Act.

(3) Qualified and registered generating facilities based on intermittent renewable energy re-

sources, including but not limited to solar and wind, shall enjoy the benefit of priority dispatch whenever it is technically possible.

10. Biomass strategy

(1) The Minister shall, within two years of the coming into force of this Act, cause to be carried out an environmental impact assessment of the use of biomass for generating electricity and other renewable energy resources (heating, cooling and transport fuel).

(2) The assessment shall include, but not be limited to-

- (a) the potential impacts of growing energy crops specifically for electricity generation, or transport fuels, or for export;
- (b) the most appropriate use for waste biomass, considering cooking fuel and electricity generation applications;
- (c) forestry impacts of using different biomass energy sources;
- (d) agricultural impacts of using different biomass energy sources;
- (e) the feasibility of using different biomass energy sources; and
- (f) potential economic impacts.

(3) Until such environmental impact assessment is complete, the generation of electricity from biomass energy sources beyond one megawatt total capacity shall not benefit from the Feed In Tariff or any other incentive.

(4) On completion of the environmental impact assessment, the Minister shall prepare and adopt a strategy for the sustainable use of biomass energy sources.

11. Licensing

(1) The Minister shall be responsible for the issuing of renewable generation licenses and, as far as reasonably practicable, simplify the licensing process for facilities using renewable energy resources to facilitate timely development of these installations.

(2) The Minister shall work with other relevant ministries and authorities to coordinate and simplify the licensing process, including where applicable in respect of environmental impact assessment, generation, distribution, land use, water use and construction.

(3) The Minister shall issue guidelines for the processing of applications for the development of projects using renewable energy resources, which shall include the following:

- (a) requiring the relevant agency to acknowledge within ten business days the receipt of any licence application and informing the applicant of any missing information required to assess their application;

- (b) an application process that reflects the scale and potential impact of the development (simpler processes for those developments that may have lower impacts);
- (c) establishing a timeline for the processing of each application;
- (d) specific deadlines for decisions and actions on licence applications;
- (e) applications for licences for development using renewable energy resources shall be processed and the applicant informed of the result within sixty days of the submission of the application.
- (f) notification to the applicant of a delay in meeting a deadline and an explanation for the delay and the estimated time for completion, and
- (g) the period within which a licence must be used or forfeited for failure to use the licence within the period.

(4) The Minister shall compile details of all relevant licence application processes and make the information and relevant application forms available on its website.

12. Net billing, Feed-in-Tariff and Energy Wheeling

(1) Subject to subsection (2), APUA or the Responsible Network Utility shall enter into net billing arrangements with consumers that generate electricity and feed into the electrical grid, using renewable energy resources.

(2) The Minister shall, in consultation with the Minister Responsible for Public Utility, establish net billing standards and pricing methodology within 120 days of the coming into force of this Act.

(3) Subject to technical considerations of the APUA, independent renewable generators with a wheeling license issued by the Minister, with the approval of Cabinet, shall be permitted to enter into Wheeling arrangements with consumers licensed by the Minister to receive wheeled energy.

(4) Cabinet, acting on the recommendation of the Minister of Public Utilities, shall set Wheeling Fees for a licensed renewable generator to be paid to APUA as compensation for the use of the transmission and distribution network between the licensed renewable generator and the consumers licensed to receive wheeled energy.

13. Accreditation

For the purpose of ensuring the implementation of the provisions of this Act, the Minister shall make rules for the certification and registration of:

- (a) facilities, which are eligible for utilisation of renewable energy resources; and

- (b) equipment, which are eligible for generation of electricity from renewable energy resources.

14. Quality of installation

(1) The Minister shall, by regulation, establish the qualification and standards of technical competence required for the installation of plant in a facility using renewable energy resources to generate electricity.

(2) A qualified technician shall provide a quality guarantee for the installation of a renewable energy resource plant in a facility in accordance with the established industry standards.

(3) A qualified installation technician, shall provide an energy production performance guarantee for the installation of renewable energy resources plant in a facility.

(4) The minimum guarantee period for quality and performance shall be one year.

15. Reporting requirement

(1) The Minister shall, within two weeks after the end of each calendar quarter, publish in the *Gazette* and in an appropriate website, a report setting out the following:

- (a) the number of applications received by APUA and the Responsible Network Utility for the connection of eligible generating facilities to a Relevant Network Utility.
- (b) the number of eligible generating facilities connected to APUA and Responsible Network Utility during the period; and
- (c) the total number of eligible generating facilities connected to APUA and a Responsible Network Utility's network, and their capacity, as compared to the maximum overall national capacity of electricity production that is eligible under the Feed In Tariff Rules.

(2) APUA and the Responsible Network Utility shall make available to the Minister without delay the following:

- (a) the information the Minister requires to prepare the report mentioned in sub-section (1); and
- (b) the data the Minister requires to record tariff payments and recovery mechanisms of the Feed In Tariff regime.

(3) The Minister shall establish a renewable energy resource registry for the following-

- (a) the registration of renewable energy resource facilities for inclusion in the register;
- (b) the supply of information to APUA of the location and the installed capacity of the facility as well as of the quantity of electricity expected to be fed into the grid (where applicable); and
- (c) the creation of a data base for the supply of the required data from the Responsible Network Utility at the end of the first quarter of each year of the data required for the final account of the previous year.

(4) APUA and The Responsible Network Utility shall determine the quantities of electricity and tariff payments based on actual measurements.

(5) The Minister shall publish in a redacted form the quantities of electricity purchased at the Feed In Tariff and the costs, if any, to the final consumers.

(6) The Minister may disclose the costs of generating electricity from renewable energy resource to final consumers.

(7) The costs referred to in this section shall be set out to consumers in a manner approved by the Minister.

16. Regulations

(1) The Minister may make regulations for the implementation of this Act.

(2) The draft of any proposed regulation made under this Act shall be published in two consecutive issues of the *Gazette* to allow interested parties reasonable time to review the proposed regulations and submit comments to the Minister.

(3) Any Regulations made under this section shall be subject to affirmative resolution of the legislature.

17. Miscellaneous

Where there is a conflict between any law or regulation existing prior to the date of the coming into force of this Act, this Act shall prevail.

No. 6 of 2015. 15

Passed by the House of Representatives
this the 23rd day of February, 2015.

Gerald Watt, Q.C.,
Speaker.

Ramona Small,
Clerk to the House of Representatives.

Renewable Energy Acts, 2015.

Passed the Senate this 11th day
of March, 2014.

Alicia Williams Grant,
President.

Ramona Small,
Clerk to the Senate.