



Clean Energy Legislation Amendment Act 2012

No. 84, 2012

**An Act to amend legislation relating to clean
energy, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Clean Energy Legislation Amendment Act 2012

No. 84, 2012

An Act to amend legislation relating to clean energy, and for other purposes

[Assented to 28 June 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Clean Energy Legislation Amendment Act 2012*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2012
2. Schedule 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Part 2 of Schedule 1 to the <i>Clean Energy (Consequential Amendments) Act 2011</i> .	1 July 2012
3. Schedule 2	The latest of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Clean Energy (Fuel Tax Legislation Amendment) Act 2011</i> ; and (c) immediately after the commencement of the provision(s) covered by table item 2.	1 July 2012
4. Schedules 3 and 4	The day after this Act receives the Royal Assent.	29 June 2012
5. Schedule 5	At the same time as section 3 of the <i>Clean Energy Finance Corporation Act 2012</i> commences.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—General amendments

Part 1—Amendments

Clean Energy Act 2011

1 Section 5 (paragraph (b) of the definition of *carbon dioxide equivalence*)

Omit “natural gas”, substitute “designated fuel”.

2 Section 5 (paragraph (b) of the definition of *carbon dioxide equivalence*)

Omit “2007; or”, substitute “2007.”.

3 Section 5 (paragraph (c) of the definition of *carbon dioxide equivalence*)

Repeal the paragraph.

4 Section 5

Insert:

designated fuel means:

- (a) natural gas; or
- (b) taxable fuel.

5 Section 5

Insert:

liquefied petroleum gas has the same meaning as in the *National Greenhouse and Energy Reporting Regulations 2008*. For this purpose, a reference in those regulations to liquid petroleum gas is to be read as a reference to liquefied petroleum gas.

6 Section 5 (definition of *liquid petroleum gas*)

Repeal the definition.

7 Section 5 (paragraph (b) of the definition of *provisional emissions number*)

Omit “11AA, 11AB,”.

8 At the end of section 20

Add:

Compressed natural gas—no double counting

(10) If:

- (a) the facility was under the operational control of the person throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the facility was attributable to the combustion of compressed natural gas; and
- (c) it is not the case that the compressed natural gas was manufactured at the facility using natural gas that was supplied by a natural gas supplier to a person (the **recipient**) (who may be the person mentioned in paragraph (a)) who quoted the recipient’s OTN in relation to the supply of the natural gas;

the amount mentioned in paragraph (b):

- (d) does not count for the purposes of subsection (1); and
- (e) counts for the purposes of paragraph (4)(b).

(11) If:

- (a) the facility was under the operational control of the person for a number of, but not all, days in the eligible financial year (the **control days**); and
- (b) during the control days, an amount of covered emissions from the operation of the facility was attributable to the combustion of compressed natural gas; and
- (c) it is not the case that the compressed natural gas was manufactured at the facility using natural gas that was supplied by a natural gas supplier to a person (the **recipient**) (who may be the person mentioned in paragraph (a)) who quoted the recipient’s OTN in relation to the supply of the natural gas;

the amount mentioned in paragraph (b):

- (d) does not count for the purposes of subsection (1); and
- (e) counts for the purposes of paragraph (5)(b).

9 After subsection 21(8)

Insert:

Compressed natural gas—no double counting

(8A) If:

- (a) a designated joint venture had the facility throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the facility was attributable to the combustion of compressed natural gas; and
- (c) it is not the case that the compressed natural gas was manufactured at the facility using natural gas that was supplied by a natural gas supplier to a person (the **recipient**) (who may be a participant in the designated joint venture) who quoted the recipient's OTN in relation to the supply of the natural gas;

the amount mentioned in paragraph (b):

- (d) does not count for the purposes of subsection (1); and
- (e) counts for the purposes of paragraph (4)(b).

(8B) If:

- (a) the designated joint venture had the facility for a number of, but not all, days in the eligible financial year (the **control days**); and
- (b) during the control days, an amount of covered emissions from the operation of the facility was attributable to the combustion of compressed natural gas; and
- (c) it is not the case that the compressed natural gas was manufactured at the facility using natural gas that was supplied by a natural gas supplier to a person (the **recipient**) (who may be a participant in the designated joint venture) who quoted the recipient's OTN in relation to the supply of the natural gas;

the amount mentioned in paragraph (b):

- (d) does not count for the purposes of subsection (1); and
- (e) counts for the purposes of paragraph (5)(b).

10 At the end of section 22

Add:

Compressed natural gas—no double counting

(8) If:

- (a) the person was the holder of the liability transfer certificate throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the facility was attributable to the combustion of compressed natural gas; and
- (c) it is not the case that the compressed natural gas was manufactured at the facility using natural gas that was supplied by a natural gas supplier to a person (the **recipient**) (who may be the holder) who quoted the recipient's OTN in relation to the supply of the natural gas;

the amount mentioned in paragraph (b):

- (d) does not count for the purposes of subsection (1); and
- (e) counts for the purposes of paragraph (4)(b).

(9) If:

- (a) the person was the holder of the liability transfer certificate for a number of, but not all, days in the eligible financial year (the **certificate days**); and
- (b) during the certificate days, an amount of covered emissions from the operation of the facility was attributable to the combustion of compressed natural gas; and
- (c) it is not the case that the compressed natural gas was manufactured at the facility using natural gas that was supplied by a natural gas supplier to a person (the **recipient**) (who may be the holder) who quoted the recipient's OTN in relation to the supply of the natural gas;

the amount mentioned in paragraph (b):

- (d) does not count for the purposes of subsection (1); and
- (e) counts for the purposes of paragraph (5)(b).

11 After subsection 23(9)

Insert:

Compressed natural gas—no double counting

(9A) If:

- (a) the landfill facility was under the operational control of the person throughout the eligible financial year; and
 - (b) during the eligible financial year, an amount of covered emissions from the operation of the landfill facility was attributable to the combustion of compressed natural gas; and
 - (c) it is not the case that the compressed natural gas was manufactured at the landfill facility using natural gas that was supplied by a natural gas supplier to a person (the *recipient*) (who may be the person mentioned in paragraph (a)) who quoted the recipient's OTN in relation to the supply of the natural gas;
- the amount mentioned in paragraph (b):
- (d) does not count for the purposes of subsection (1); and
 - (e) counts for the purposes of paragraph (4)(b).

(9B) If:

- (a) the landfill facility was under the operational control of the person for a number of, but not all, days in the eligible financial year (the *control days*); and
 - (b) during the control days, an amount of covered emissions from the operation of the landfill facility was attributable to the combustion of compressed natural gas; and
 - (c) it is not the case that the compressed natural gas was manufactured at the landfill facility using natural gas that was supplied by a natural gas supplier to a person (the *recipient*) (who may be the person mentioned in paragraph (a)) who quoted the recipient's OTN in relation to the supply of the natural gas;
- the amount mentioned in paragraph (b):
- (d) does not count for the purposes of subsection (1); and
 - (e) counts for the purposes of paragraph (5)(b).

12 After subsection 24(8)

Insert:

Compressed natural gas—no double counting

(8A) If:

- (a) the designated joint venture had the landfill facility throughout the eligible financial year; and

- (b) during the eligible financial year, an amount of covered emissions from the operation of the landfill facility was attributable to the combustion of compressed natural gas; and
 - (c) it is not the case that the compressed natural gas was manufactured at the landfill facility using natural gas that was supplied by a natural gas supplier to a person (the *recipient*) (who may be a participant in the designated joint venture) who quoted the recipient's OTN in relation to the supply of the natural gas;
- the amount mentioned in paragraph (b):
- (d) does not count for the purposes of subsection (1); and
 - (e) counts for the purposes of paragraph (4)(b).

(8B) If:

- (a) the designated joint venture had the landfill facility for a number of, but not all, days in the eligible financial year (the *control days*); and
 - (b) during the control days, an amount of covered emissions from the operation of the landfill facility was attributable to the combustion of compressed natural gas; and
 - (c) it is not the case that the compressed natural gas was manufactured at the landfill facility using natural gas that was supplied by a natural gas supplier to a person (the *recipient*) (who may be a participant in the designated joint venture) who quoted the recipient's OTN in relation to the supply of the natural gas;
- the amount mentioned in paragraph (b):
- (d) does not count for the purposes of subsection (1); and
 - (e) counts for the purposes of paragraph (5)(b).

13 After subsection 25(7)

Insert:

Compressed natural gas—no double counting

(7A) If:

- (a) the person was the holder of the liability transfer certificate throughout the eligible financial year; and

- (b) during the eligible financial year, an amount of covered emissions from the operation of the landfill facility was attributable to the combustion of compressed natural gas; and
 - (c) it is not the case that the compressed natural gas was manufactured at the landfill facility using natural gas that was supplied by a natural gas supplier to a person (the *recipient*) (who may be the holder) who quoted the recipient's OTN in relation to the supply of the natural gas;
- the amount mentioned in paragraph (b):
- (d) does not count for the purposes of subsection (1); and
 - (e) counts for the purposes of paragraph (4)(b).

(7B) If:

- (a) the person was the holder of the liability transfer certificate for a number of, but not all, days in the eligible financial year (the *certificate days*); and
 - (b) during the certificate days, an amount of covered emissions from the operation of the landfill facility was attributable to the combustion of compressed natural gas; and
 - (c) it is not the case that the compressed natural gas was manufactured at the landfill facility using natural gas that was supplied by a natural gas supplier to a person (the *recipient*) (who may be the holder) who quoted the recipient's OTN in relation to the supply of the natural gas;
- the amount mentioned in paragraph (b):
- (d) does not count for the purposes of subsection (1); and
 - (e) counts for the purposes of paragraph (5)(b).

14 Paragraph 30(2)(b)

Omit "liquid petroleum gas", substitute "liquefied petroleum gas".

15 After subsection 35(6)

Insert:

- (6A) For the purposes of this section, if:
- (a) the OTN holder quotes the OTN holder's OTN in relation to a supply to the OTN holder of an amount of natural gas; and
 - (b) during an eligible financial year, an amount of covered emissions from the operation of a facility was attributable to the combustion of an amount of compressed natural gas that

was manufactured at the facility using the whole or a part (which whole or part is in this subsection called the ***relevant portion***) of the amount mentioned in paragraph (a); and

(c) the covered emissions mentioned in paragraph (b) count for the purposes of subsection 20(1), 21(1), 22(1), 23(1), 24(1) or 25(1); and

(d) the potential greenhouse gas emissions embodied in the relevant portion have a carbon dioxide equivalence of a particular number of tonnes;

the number mentioned in paragraph (d) is a ***netted-out number*** of the OTN holder for the eligible financial year.

16 Subsection 35(7)

Omit “liquid petroleum gas” (wherever occurring), substitute “liquefied petroleum gas”.

17 Section 58 (heading)

Repeal the heading, substitute:

58 Quotation of OTN—use of natural gas in manufacturing compressed natural gas, liquefied natural gas or liquefied petroleum gas

18 Paragraph 58(1)(d)

Omit “liquid petroleum gas”, substitute “liquefied petroleum gas”.

19 Subsection 92A(4)

Repeal the subsection, substitute:

(4) For the purposes of this section, a designated opt-in person ***passes the eligibility test*** in respect of an acquisition, manufacture or import of taxable fuel during a financial year if:

(a) in a case where:

(i) the designated opt-in person was a member of a GST group at the start of the financial year; and

(ii) if it were assumed that the fuel had been acquired, manufactured or imported, as the case may be, at the start of the financial year—the entity that would have been entitled to a fuel tax credit in respect of that

acquisition, manufacture or import, as the case may be,
would have consisted of the members of the GST group;
the fuel was acquired, manufactured or imported, as the case
may be, by a person who was a member of the GST group as
at the start of the financial year; or

(b) in a case where:

- (i) the designated opt-in person was a participant in a GST joint venture at the start of the financial year; and
- (ii) if it were assumed that the fuel had been acquired, manufactured or imported, as the case may be, at the start of the financial year—the entity that would have been entitled to a fuel tax credit in respect of that acquisition, manufacture or import, as the case may be, would have consisted of the participants in the GST joint venture;

the fuel was acquired, manufactured or imported, as the case may be, by a person who was a participant in the GST joint venture as at the start of the financial year; or

(c) in any other case—the designated opt-in person is the entity that was entitled to a fuel tax credit in respect of that acquisition, manufacture or import, as the case may be.

(4AA) It is immaterial whether the designated opt-in person is:

- (a) the person last mentioned in paragraph (4)(a); or
- (b) the person last mentioned in paragraph (4)(b).

(4AB) For the purposes of subparagraphs (4)(a)(ii) and (b)(ii), in determining the entity that would have been entitled to a fuel tax credit in respect of an acquisition, manufacture or import of taxable fuel, disregard:

- (a) so much of subsection 70-5(2) of the *Fuel Tax Act 2006* as does not consist of the table; and
- (b) column 2 of the table in that subsection.

20 After section 92D

Insert:

92DA Notification requirement

Scope

- (1) This section applies to a person if the person is a designated opt-in person.

Requirement

- (2) The Opt-in Scheme may make provision for and in relation to requiring the person to notify matters to the Regulator.
- (3) Subsection (2) does not, by implication, limit subsection 92A(1).

21 At the end of Division 7 of Part 3

Add:

92H Compliance with reporting, record-keeping and notification requirements

Reporting requirements

- (1) If a person is subject to a requirement under the Opt-in Scheme to give a report to the Regulator, the person must comply with that requirement.

Record-keeping requirements

- (2) If a person is subject to a requirement under the Opt-in Scheme to:
 - (a) make a record of information; or
 - (b) retain such a record or a copy;the person must comply with that requirement.

Notification requirements

- (3) If a person is subject to a requirement under the Opt-in Scheme to notify a matter to the Regulator, the person must comply with that requirement.

Ancillary contraventions

- (4) A person must not:

- (a) aid, abet, counsel or procure a contravention of subsection (1), (2) or (3); or
- (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1), (2) or (3); or
- (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1), (2) or (3); or
- (d) conspire with others to effect a contravention of subsection (1), (2) or (3).

Civil penalty provisions

- (5) Subsections (1), (2), (3) and (4) are ***civil penalty provisions***.

Note: Part 17 provides for pecuniary penalties for breaches of civil penalty provisions.

22 After paragraph 262(1)(r)

Insert:

- (ra) subsection 92H(1);
- (rb) subsection 92H(2);
- (rc) subsection 92H(3);

23 After paragraph 263(2)(g)

Insert:

- (ga) subsection 92H(1);
- (gb) subsection 92H(3);

National Greenhouse and Energy Reporting Act 2007

24 Section 7 (paragraph (b) of the definition of *carbon dioxide equivalence*)

Omit “natural gas”, substitute “designated fuel”.

25 Section 7

Insert:

designated fuel has the same meaning as in the *Clean Energy Act 2011*.

26 Section 7

Insert:

externally-administered body corporate has the same meaning as in the *Corporations Act 2001*.

27 Section 7

Insert:

insolvent under administration has the same meaning as in the *Corporations Act 2001*.

28 Section 7 (definition of *operational control*)

Omit “11AA, 11AB,”.

29 Section 7 (definition of *potential greenhouse gas emissions*)

Omit “natural gas”, substitute “designated fuel”.

30 Section 7

Insert:

unit shortfall charge has the same meaning as in the *Clean Energy Act 2011*.

31 Section 7

Insert:

unsatisfactory compliance record has the meaning given by section 11D.

32 Section 7B (heading)

Repeal the heading, substitute:

7B Potential greenhouse gas emissions embodied in an amount of designated fuel

33 Subsection 7B(1)

Omit “of natural gas”, substitute “of a particular kind of designated fuel”.

34 Subsection 7B(1)

Omit “of the natural gas”, substitute “of the designated fuel”.

35 Subsection 7B(2)

Omit “of natural gas”, substitute “of a specified kind of designated fuel”.

36 Subsection 7B(2)

Omit “of the natural gas”, substitute “of the designated fuel”.

37 At the end of subsection 7B(2)

Add “in relation to that kind of designated fuel”.

38 Paragraph 7B(3)(c)

Omit “natural gas”, substitute “a particular kind of designated fuel”.

39 Paragraph 7B(4)(a)

Omit “natural gas”, substitute “a particular kind of designated fuel”.

40 Paragraph 7B(4)(c)

Omit “the natural gas”, substitute “that kind of designated fuel”.

41 Subsection 7B(5)

Omit “natural gas”, substitute “designated fuel of a kind specified in the determination”.

42 At the end of subsection 7B(5)

Add “in relation to that kind of designated fuel”.

43 Section 7C (heading)

Repeal the heading, substitute:

**7C Carbon dioxide equivalence of potential greenhouse gas
emissions embodied in an amount of designated fuel**

44 Subsection 7C(1)

Omit “natural gas”, substitute “designated fuel”.

45 Subsection 11(4)

Omit “11AA, 11AB,”.

46 Sections 11AA, 11AB, 11B and 11C

Repeal the sections, substitute:

11B Operational control—nominated person

Eligible nomination test

- (1) For the purposes of this section, a facility *passes the eligible nomination test* at a particular time if:
 - (a) 2 or more persons (the *relevant persons*) could satisfy paragraph 11(1)(a) in relation to the facility at that time; and
 - (b) no particular person has the greatest authority to introduce and implement the policies mentioned in subparagraphs 11(1)(a)(i) and (iii) in relation to the facility at that time; and
 - (c) no declaration under section 55 or 55A applies in relation to the facility at that time; and
 - (d) that time occurs in an eligible financial year.

Nomination

- (2) 2 or more persons may jointly nominate one of them to be the nominated person in relation to a facility throughout the period:
 - (a) beginning at the start of the day specified in the nomination as the day on which the nomination is to come into force (the *start day*); and
 - (b) ending at a later time specified in the nomination.
- (3) The nomination must:
 - (a) be in writing; and
 - (b) be in a form approved by the Regulator; and
 - (c) be accompanied by such information as is specified in the regulations; and
 - (d) be accompanied by such documents (if any) as are specified in the regulations.
- (4) If:
 - (a) any of those persons is a foreign person; and
 - (b) any of those persons is not a foreign person;a foreign person cannot be nominated.

- (5) The nomination has no effect unless, at the beginning of the start day:
 - (a) the facility passes the eligible nomination test; and
 - (b) the nominators are the relevant persons.
- (6) The start day may occur before the nomination is made.
- (7) If:
 - (a) the start day occurs in the first 9 months of a fixed charge year; and
 - (b) it may reasonably be expected that a person would have had an interim emissions number for the fixed charge year if it were assumed that:
 - (i) the person had operational control of the facility throughout a period that is included in, or consists of, the first 9 months of the fixed charge year; and
 - (ii) no other person had operational control of the facility throughout that period;the nomination must be made before 1 May in the fixed charge year.
- (8) If the start day occurs during a particular eligible financial year, the nomination must not be made after 31 August next following the eligible financial year.
- (9) The start day may be later than the day on which the nomination is made, so long as:
 - (a) the start day occurs in the same financial year as the day on which the nomination is made; or
 - (b) the start day occurs in the financial year next following the financial year in which the nomination is made.

Cancellation of nomination

- (10) The Regulator may cancel a nomination that relates to a facility if the Regulator is satisfied that:
 - (a) the facility passes the eligible nomination test, but the nominated person is not a relevant person; or
 - (b) the facility does not pass the eligible nomination test; or
 - (c) the nominated person has become an externally-administered body corporate; or

- (d) the nominated person has become an insolvent under administration; or
- (e) the nominated person has an unsatisfactory compliance record.

Note: For *unsatisfactory compliance record*, see section 11D.

- (11) A cancellation of a nomination takes effect on the day specified in the notice of cancellation as the day on which the cancellation is to take effect.
- (12) If the Regulator cancels a nomination, the Regulator must give written notice of the cancellation to each nominator.

Replacement nomination

- (13) If:
 - (a) a nomination (the ***original nomination***) is in force in relation to a facility; and
 - (b) another nomination is made in relation to the facility;the other nomination has no effect unless it is expressed to replace the original nomination.

Revocation of nomination

- (14) If:
 - (a) a nomination (the ***original nomination***) is in force in relation to a facility; and
 - (b) another nomination is made in relation to the facility; and
 - (c) the other nomination is expressed to replace the original nomination;the original nomination is taken to have been revoked at the beginning of the start day for the other nomination.

Operational control—nomination made

- (15) If:
 - (a) a nomination is in force in relation to a facility throughout a particular period; and
 - (b) the facility passes the eligible nomination test at all times during the period; and
 - (c) the facility is a facility of a joint venture;

the nominated person is taken, for the purposes of this Act, to have ***operational control*** of the facility throughout the period.

(16) If:

- (a) a nomination is in force in relation to a facility throughout a particular period; and
- (b) the facility passes the eligible nomination test at all times during the period; and
- (c) the facility is not a facility of a joint venture;

the nominated person is taken, for the purposes of this Act and the *Clean Energy Act 2011*, to have ***operational control*** of the facility throughout the period.

Operational control—nomination not made

(17) If:

- (a) no nomination is in force in relation to a facility at any time during a particular period; and
- (b) the facility passes the eligible nomination test at all times during the period; and
- (c) the facility is a facility of a joint venture;

each of the relevant persons is taken, for the purposes of this Act, to have ***operational control*** of the facility throughout the period.

(18) If:

- (a) no nomination is in force in relation to a facility at any time during a particular period; and
- (b) the facility passes the eligible nomination test at all times during the period; and
- (c) the facility is not a facility of a joint venture;

then:

- (d) each relevant person is taken, for the purposes of this Act and the *Clean Energy Act 2011*, to have ***operational control*** of the facility throughout the period; and
- (e) if there is a provisional emissions number of such a person for the eligible financial year in relation to greenhouse gases emitted from the operation of the facility during the period—for the purposes of this Act and the *Clean Energy Act 2011*, that provisional emissions number is taken to be the number worked out using the formula set out in subsection (19).

(19) The formula is:

$$\frac{\text{Unadjusted provisional emissions number}}{\text{Total number of relevant persons}}$$

where:

unadjusted provisional emissions number means the number that, apart from paragraph (18)(e), would be the provisional emissions number of the person for the eligible financial year in relation to greenhouse gases emitted from the operation of the facility during the period.

Notification

(20) If:

- (a) a nomination is in force in relation to a facility; and
 - (b) the facility ceases to pass the eligible nomination test;
- each nominator must, within 30 days after the cessation, notify the cessation to the Regulator unless the cessation has previously been notified to the Regulator.

Civil penalty: 400 penalty units.

Exceptions

(21) A person is not required to comply with subsection (20) if the question of who has operational control of the facility is not relevant (whether directly or indirectly) to a requirement under:

- (a) this Act; or
- (b) the *Clean Energy Act 2011*.

(22) A person is not required to comply with subsection (20) if the facility ceases to pass the eligible nomination test because of the making of a declaration under section 55 or 55A.

Definition

(23) In this section:

nomination means a nomination under subsection (2).

11C Operational control—trust with multiple trustees

Eligible nomination test

- (1) For the purposes of this section, a facility *passes the eligible nomination test* at a particular time if:
 - (a) because of section 11, 11A or 11B, a trust has operational control of the facility at that time; and
 - (b) at that time, there are 2 or more trustees (the *relevant trustees*) of the trust; and
 - (c) no declaration under section 55 or 55A applies in relation to the facility at that time; and
 - (d) that time occurs in an eligible financial year.

Nomination

- (2) 2 or more trustees may jointly nominate one of them to be the nominated trustee in relation to a facility throughout the period:
 - (a) beginning at the start of the day specified in the nomination as the day on which the nomination is to come into force (the *start day*); and
 - (b) ending at a later time specified in the nomination.
- (3) The nomination must:
 - (a) be in writing; and
 - (b) be in a form approved by the Regulator; and
 - (c) be accompanied by such information as is specified in the regulations; and
 - (d) be accompanied by such documents (if any) as are specified in the regulations.
- (4) If:
 - (a) any of those trustees is a foreign person; and
 - (b) any of those trustees is not a foreign person;a foreign person cannot be nominated.
- (5) The nomination has no effect unless, at the beginning of the start day:
 - (a) the facility passes the eligible nomination test; and
 - (b) the nominators are the relevant trustees.

- (6) The start day may occur before the nomination is made.
- (7) If:
- (a) the start day occurs in the first 9 months of a fixed charge year; and
 - (b) it may reasonably be expected that a person would have had an interim emissions number for the fixed charge year if it were assumed that:
 - (i) the person had operational control of the facility throughout a period that is included in, or consists of, the first 9 months of the fixed charge year; and
 - (ii) no other person had operational control of the facility throughout that period;
- the nomination must be made before 1 May in the fixed charge year.
- (8) If the start day occurs during a particular eligible financial year, the nomination must not be made after 31 August next following the eligible financial year.
- (9) The start day may be later than the day on which the nomination is made, so long as:
- (a) the start day occurs in the same financial year as the day on which the nomination is made; or
 - (b) the start day occurs in the financial year next following the financial year in which the nomination is made.

Cancellation of nomination

- (10) The Regulator may cancel a nomination that relates to a facility if the Regulator is satisfied that:
- (a) the facility passes the eligible nomination test, but the nominated trustee is not a relevant trustee; or
 - (b) the facility does not pass the eligible nomination test; or
 - (c) the nominated trustee has become an externally-administered body corporate; or
 - (d) the nominated trustee has become an insolvent under administration; or
 - (e) the nominated trustee has an unsatisfactory compliance record.

Note: For *unsatisfactory compliance record*, see section 11D.

- (11) A cancellation of a nomination takes effect on the day specified in the notice of cancellation as the day on which the cancellation is to take effect.
- (12) If the Regulator cancels a nomination, the Regulator must give written notice of the cancellation to each nominator.

Replacement nomination

- (13) If:
- (a) a nomination (the ***original nomination***) is in force in relation to a facility; and
 - (b) another nomination is made in relation to the facility;
- the other nomination has no effect unless it is expressed to replace the original nomination.

Revocation of nomination

- (14) If:
- (a) a nomination (the ***original nomination***) is in force in relation to a facility; and
 - (b) another nomination is made in relation to the facility; and
 - (c) the other nomination is expressed to replace the original nomination;
- the original nomination is taken to have been revoked at the beginning of the start day for the other nomination.

Operational control—nomination made

- (15) If:
- (a) a nomination is in force in relation to a facility throughout a particular period; and
 - (b) the facility passes the eligible nomination test at all times during the period;
- the nominated trustee is taken, for the purposes of this Act and the *Clean Energy Act 2011*, to have ***operational control*** of the facility throughout the period.

Operational control—nomination not made

- (16) If:

- (a) no nomination is in force in relation to a facility at any time during a particular period; and
- (b) the facility passes the eligible nomination test at all times during the period;

then:

- (c) each relevant trustee is taken, for the purposes of this Act and the *Clean Energy Act 2011*, to have **operational control** of the facility throughout the period; and
- (d) if there is a provisional emissions number of such a trustee for the eligible financial year in relation to greenhouse gases emitted from the operation of the facility during the period—for the purposes of this Act and the *Clean Energy Act 2011*, that provisional emissions number is taken to be the number worked out using the formula set out in subsection (17).

(17) The formula is:

$$\frac{\text{Unadjusted provisional emissions number}}{\text{Total number of relevant trustees}}$$

where:

unadjusted provisional emissions number means the number that, apart from paragraph (16)(d), would be the provisional emissions number of the trustee for the eligible financial year in relation to greenhouse gases emitted from the operation of the facility during the period.

Notification

(18) If:

- (a) a nomination is in force in relation to a facility; and
 - (b) the facility ceases to pass the eligible nomination test;
- each nominator must, within 30 days after the cessation, notify the cessation to the Regulator unless the cessation has previously been notified to the Regulator.

Civil penalty: 400 penalty units.

Exceptions

- (19) A trustee is not required to comply with subsection (18) if the question of who has operational control of the facility is not relevant (whether directly or indirectly) to a requirement under:
 - (a) this Act; or
 - (b) the *Clean Energy Act 2011*.
- (20) A trustee is not required to comply with subsection (18) if the facility ceases to pass the eligible nomination test because of the making of a declaration under section 55 or 55A.

Definition

- (21) In this section:

nomination means a nomination under subsection (2).

11D Unsatisfactory compliance record

- (1) For the purposes of this Act, a person has an ***unsatisfactory compliance record*** if, and only if:
 - (a) at any time during the preceding 5 years, the person has breached a requirement under this Act to provide a report; or
 - (b) at any time during the preceding 5 years, the person has provided a report under this Act that contains information that is false or misleading in a material particular; or
 - (c) at any time during the preceding 5 years, an amount of unit shortfall charge payable by the person remained unpaid more than 3 months after it became due for payment; or
 - (d) the following conditions are satisfied:
 - (i) at any time during the preceding 5 years, a copy of an audit report of a greenhouse and energy audit relating to the person was given to the Regulator under this Act;
 - (ii) the report contained an adverse conclusion (within the meaning of the *National Greenhouse and Energy Reporting (Audit) Determination 2009*); or
 - (e) at any time during the preceding 5 years, the person has breached a civil penalty provision of:
 - (i) this Act; or
 - (ii) the *Clean Energy Act 2011*; or

- (iii) a determination under section 113 of the *Clean Energy Act 2011*; or
- (f) if the person is a body corporate—at any time during the preceding 5 years, an executive officer of the body corporate has breached a civil penalty provision of:
 - (i) this Act; or
 - (ii) the *Clean Energy Act 2011*; or
 - (iii) a determination under section 113 of the *Clean Energy Act 2011*; or
- (g) both:
 - (i) at any time during the preceding 5 years, the person has done a particular act; and
 - (ii) the act is of a kind specified in the regulations; or
- (h) both:
 - (i) at any time during the preceding 5 years, the person has omitted to do a particular act; and
 - (ii) the omission is of a kind specified in the regulations; or
- (i) the person has been convicted of an offence against:
 - (i) this Act; or
 - (ii) the *Clean Energy Act 2011*; or
- (j) if the person is a body corporate—an executive officer of the body corporate has been convicted of an offence against:
 - (i) this Act; or
 - (ii) the *Clean Energy Act 2011*.

Spent convictions

- (2) Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

47 Paragraph 22A(1)(c)

Omit “natural gas”, substitute “designated fuel”.

48 Paragraph 22AA(1)(e)

Omit “natural gas”, substitute “designated fuel”.

49 Paragraph 24(1)(c)

Repeal the paragraph, substitute:

- (c) the totals of net energy consumption for the corporation's group for the previous financial year.

50 Paragraph 24(1A)(c)

Repeal the paragraph, substitute:

- (c) the totals of net energy consumption for each member of the corporation's group, or each business unit in relation to the corporation's group, for the previous financial year; and

51 Paragraph 24(1AA)(c)

Omit "natural gas", substitute "designated fuel".

52 Paragraphs 24(1AD)(a) and (b)

After "regulations)", insert "set out in the report".

53 Paragraph 24(1AD)(c)

Omit "energy consumption;", substitute "net energy consumption derived from the report.".

54 Subsection 24(1AD)

Omit "set out in the report.".

55 Subsection 24(1C)

Omit "or adjusted totals".

56 At the end of section 24

Add:

Net energy consumption

- (7) For the purposes of subsections (1) and (1A), ***net energy consumption*** for a financial year means energy consumption reported under Part 3 or 3F for the financial year, adjusted in accordance with the regulations.
- (8) For the purposes of subsection (1AD), the ***net energy consumption*** derived from a report under section 22E or 22G means the energy

consumption set out in the report, adjusted in accordance with the regulations.

57 Subsection 30(2A)

After “section”, insert “11B, 11C,”.

58 Before paragraph 56(a)

Insert:

- (aaa) cancel a nomination under section 11B;
- (aab) cancel a nomination under section 11C;

Part 2—Transitional provisions

59 Transitional—determinations under section 7B of the *National Greenhouse and Energy Reporting Act 2007*

Scope

- (1) This item applies to a determination if:
- (a) the determination was made under subsection 7B(2), (4) or (5) of the *National Greenhouse and Energy Reporting Act 2007*; and
 - (b) the determination was in force immediately before the commencement of this item.

Determination

- (2) The determination has effect, after the commencement of this item, as if it:
- (a) had been made under the corresponding provision of section 7B of the *National Greenhouse and Energy Reporting Act 2007* as amended by this Act; and
 - (b) related to a specified kind of designated fuel, namely, natural gas.

Schedule 2—Amendments relating to gaseous fuel

Clean Energy Act 2011

1 Section 4

After:

- If a natural gas supplier supplies natural gas, and does not surrender one eligible emissions unit for each tonne of carbon dioxide equivalence of the potential greenhouse gas emissions embodied in the natural gas, the supplier is liable to pay unit shortfall charge.

insert:

- If a person imports or produces liquefied petroleum gas or liquefied natural gas for non-transport use, and does not surrender one eligible emissions unit for each tonne of carbon dioxide equivalence of the potential greenhouse gas emissions embodied in the liquefied petroleum gas or liquefied natural gas, the person is liable to pay unit shortfall charge.

2 Section 5 (at the end of the definition of *designated fuel*)

Add:

- ; or (c) liquefied natural gas; or
- (d) liquefied petroleum gas.

3 Section 5

Insert:

gaseous fuel supplier means a person who supplies:

- (a) liquefied natural gas; or
- (b) liquefied petroleum gas; or
- (c) natural gas.

4 Section 5

Insert:

non-transport combustion means combustion that does not occur in:

- (a) an internal combustion engine in a motor vehicle; or
- (b) an internal combustion engine in a vessel.

5 Section 5 (definition of ***taxable fuel***)

After “*Fuel Tax Act 2006*”, insert “(for this purpose, disregard paragraph (b) of the definition of ***taxable fuel*** in section 110-5 of that Act)”.

6 Section 19

Omit:

- If a natural gas supplier supplies an amount of natural gas to another person (the ***recipient***) who quotes the recipient’s Obligation Transfer Number (OTN) in relation to the supply, the supply will not count towards the supplier’s liability for the financial year.
- If a person (the ***OTN holder***) quotes the OTN holder’s OTN in relation to the supply of an amount of natural gas, the OTN holder may be a liable entity.

substitute:

- If a person imports or produces liquefied petroleum gas or liquefied natural gas, during a financial year, for non-transport use:
 - (a) the person is a liable entity for the financial year; and
 - (b) the number of tonnes of carbon dioxide equivalence of the potential greenhouse gas emissions embodied in the liquefied petroleum gas or liquefied natural gas is a provisional emissions number of the person for the financial year.

- If a person supplies an amount of natural gas, liquefied petroleum gas or liquefied natural gas to another person (the **recipient**) who quotes the recipient's Obligation Transfer Number (OTN) in relation to the supply, the supply will not count towards the supplier's liability for the financial year.
- If a person (the **OTN holder**) quotes the OTN holder's OTN in relation to the supply of an amount of natural gas, liquefied petroleum gas or liquefied natural gas, the OTN holder may be a liable entity.

7 At the end of section 20

Add:

Gaseous fuel—no double counting

(12) If:

- (a) the facility was under the operational control of the person throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the **recipient**) (who may be the person mentioned in paragraph (a)); and
- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
- (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
- (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;

the amount mentioned in paragraph (b):

- (f) does not count for the purposes of subsection (1); and
- (g) counts for the purposes of paragraph (4)(b).

(13) If:

- (a) the facility was under the operational control of the person for a number of, but not all, days in the eligible financial year (the *control days*); and
 - (b) during the control days, an amount of covered emissions from the operation of the facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be the person mentioned in paragraph (a)); and
 - (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (5)(b).

8 After subsection 21(8B)

Insert:

Gaseous fuel—no double counting

(8C) If:

- (a) a designated joint venture had the facility throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be a participant in the designated joint venture); and
- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and

- (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (4)(b).

(8D) If:

- (a) the designated joint venture had the facility for a number of, but not all, days in the eligible financial year (the *control days*); and
 - (b) during the control days, an amount of covered emissions from the operation of the facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be a participant in the designated joint venture); and
 - (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (5)(b).

9 At the end of section 22

Add:

Gaseous fuel—no double counting

(10) If:

- (a) the person was the holder of the liability transfer certificate throughout the eligible financial year; and
 - (b) during the eligible financial year, an amount of covered emissions from the operation of the facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be the holder); and
 - (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (4)(b).

(11) If:

- (a) the person was the holder of the liability transfer certificate for a number of, but not all, days in the eligible financial year (the *certificate days*); and
- (b) during the certificate days, an amount of covered emissions from the operation of the facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be the holder); and
- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
- (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
- (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;

the amount mentioned in paragraph (b):

- (f) does not count for the purposes of subsection (1); and
- (g) counts for the purposes of paragraph (5)(b).

10 After subsection 23(9B)

Insert:

Gaseous fuel—no double counting

(9C) If:

- (a) the landfill facility was under the operational control of the person throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the landfill facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the **recipient**) (who may be the person mentioned in paragraph (a)); and
- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
- (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
- (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;

the amount mentioned in paragraph (b):

- (f) does not count for the purposes of subsection (1); and
- (g) counts for the purposes of paragraph (4)(b).

(9D) If:

- (a) the landfill facility was under the operational control of the person for a number of, but not all, days in the eligible financial year (the **control days**); and
- (b) during the control days, an amount of covered emissions from the operation of the landfill facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel

- supplier to a person (the *recipient*) (who may be the person mentioned in paragraph (a)); and
- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (5)(b).

11 After subsection 24(8B)

Insert:

Gaseous fuel—no double counting

(8C) If:

- (a) the designated joint venture had the landfill facility throughout the eligible financial year; and
 - (b) during the eligible financial year, an amount of covered emissions from the operation of the landfill facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be a participant in the designated joint venture); and
 - (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and

(g) counts for the purposes of paragraph (4)(b).

(8D) If:

- (a) the designated joint venture had the landfill facility for a number of, but not all, days in the eligible financial year (the ***control days***); and
- (b) during the control days, an amount of covered emissions from the operation of the landfill facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the ***recipient***) (who may be a participant in the designated joint venture); and
- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
- (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
- (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;

the amount mentioned in paragraph (b):

- (f) does not count for the purposes of subsection (1); and
- (g) counts for the purposes of paragraph (5)(b).

12 After subsection 25(7B)

Insert:

Gaseous fuel—no double counting

(7C) If:

- (a) the person was the holder of the liability transfer certificate throughout the eligible financial year; and
- (b) during the eligible financial year, an amount of covered emissions from the operation of the landfill facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the ***recipient***) (who may be the holder); and

- (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (4)(b).

(7D) If:

- (a) the person was the holder of the liability transfer certificate for a number of, but not all, days in the eligible financial year (the *certificate days*); and
 - (b) during the certificate days, an amount of covered emissions from the operation of the landfill facility was attributable to the non-transport combustion of liquefied petroleum gas or liquefied natural gas that was supplied by a gaseous fuel supplier to a person (the *recipient*) (who may be the holder); and
 - (c) the recipient did not quote the recipient's OTN in relation to the supply of the liquefied petroleum gas or liquefied natural gas; and
 - (d) the gaseous fuel supplier has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (e) the preliminary emissions number is wholly or partly attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas;
- the amount mentioned in paragraph (b):
- (f) does not count for the purposes of subsection (1); and
 - (g) counts for the purposes of paragraph (5)(b).

13 After Division 3 of Part 3

Insert:

Division 3A—Liquefied petroleum gas, and liquefied natural gas, for non-transport use

36B Liable entity—import of liquefied petroleum gas or liquefied natural gas for non-transport use

Preliminary emissions number

- (1) For the purposes of this section, if:
- (a) an amount of liquefied petroleum gas or liquefied natural gas is imported; and
 - (b) that amount is entered for home consumption during an eligible financial year; and
 - (c) the eligible financial year begins on or after 1 July 2013; and
 - (d) apart from any remission of customs duty, customs duty is or was payable by a person on that amount; and
 - (e) the customs duty is remitted on the grounds that the liquefied petroleum gas or liquefied natural gas is not used, or intended for use, in an internal combustion engine in either a motor vehicle or a vessel; and
 - (f) that amount is not an amount that, under the regulations, is exempt from this subsection; and
 - (g) the potential greenhouse gas emissions embodied in the amount mentioned in paragraph (a) have a carbon dioxide equivalence of a particular number of tonnes;
- that number is a ***preliminary emissions number*** of the person for the eligible financial year.

Provisional emissions number and liable entity

- (2) If the person has, under subsection (1), one or more preliminary emissions numbers for the eligible financial year, then, for the purposes of this Act:
- (a) the sum of the preliminary emissions numbers is a ***provisional emissions number*** of the person for the eligible financial year; and
 - (b) the person is a ***liable entity*** for the eligible financial year.

Reduction of provisional emissions number

- (3) If:
- (a) the person has, under subsection (2), a provisional emissions number for an eligible financial year; and
 - (b) the person has one or more netted-out numbers for the eligible financial year (see subsections (4) and (5));
- the provisional emissions number is to be reduced (but not below zero) by the total of those netted-out numbers.

Netted-out numbers

- (4) The regulations may provide that, for the purposes of this section, a number ascertained in accordance with the regulations is a **netted-out number** of a person for an eligible financial year ascertained in accordance with the regulations.
- (5) If:
- (a) a person has, under subsection (1), a preliminary emissions number for an eligible financial year; and
 - (b) the preliminary emissions number is attributable to the import of an amount of liquefied petroleum gas or liquefied natural gas; and
 - (c) during an eligible financial year, the person supplies an amount of liquefied petroleum gas or liquefied natural gas to another person (the **OTN holder**) who quotes the OTN holder's OTN in relation to the supply; and
 - (d) the supplied amount is the whole or a part of the amount mentioned in paragraph (b); and
 - (e) the potential greenhouse gas emissions embodied in the supplied amount have a carbon dioxide equivalence of a particular number of tonnes;
- that number is a **netted-out number** of the first-mentioned person for the eligible financial year mentioned in paragraph (c).

36C Liable entity—production of liquefied petroleum gas or liquefied natural gas for non-transport use

Preliminary emissions number

- (1) For the purposes of this section, if:
-

- (a) an amount of liquefied petroleum gas or liquefied natural gas is manufactured or produced in Australia; and
- (b) that amount is entered for home consumption during an eligible financial year; and
- (c) the eligible financial year begins on or after 1 July 2013; and
- (d) apart from any remission of excise duty, excise duty is or was payable by a person on that amount; and
- (e) the excise duty is remitted on the grounds that the liquefied petroleum gas or liquefied natural gas is not used, or intended for use, in an internal combustion engine in either a motor vehicle or a vessel; and
- (f) that amount is not an amount that, under the regulations, is exempt from this subsection; and
- (g) the potential greenhouse gas emissions embodied in the amount mentioned in paragraph (a) have a carbon dioxide equivalence of a particular number of tonnes;

that number is a ***preliminary emissions number*** of the person for the eligible financial year.

Provisional emissions number and liable entity

- (2) If the person has, under subsection (1), one or more preliminary emissions numbers for the eligible financial year, then, for the purposes of this Act:
 - (a) the sum of the preliminary emissions numbers is a ***provisional emissions number*** of the person for the eligible financial year; and
 - (b) the person is a ***liable entity*** for the eligible financial year.

Reduction of provisional emissions number

- (3) If:
 - (a) the person has, under subsection (2), a provisional emissions number for an eligible financial year; and
 - (b) the person has one or more netted-out numbers for the eligible financial year (see subsections (4) and (5));
 the provisional emissions number is to be reduced (but not below zero) by the total of those netted-out numbers.

Netted-out numbers

- (4) The regulations may provide that, for the purposes of this section, a number ascertained in accordance with the regulations is a ***netted-out number*** of a person for an eligible financial year ascertained in accordance with the regulations.
- (5) If:
 - (a) a person has, under subsection (1), a preliminary emissions number for an eligible financial year; and
 - (b) the preliminary emissions number is attributable to the manufacture or production of an amount of liquefied petroleum gas or liquefied natural gas; and
 - (c) during an eligible financial year, the person supplies an amount of liquefied petroleum gas or liquefied natural gas to another person (the ***OTN holder***) who quotes the OTN holder's OTN in relation to the supply; and
 - (d) the supplied amount is the whole or a part of the amount mentioned in paragraph (b); and
 - (e) the potential greenhouse gas emissions embodied in the supplied amount have a carbon dioxide equivalence of a particular number of tonnes;that number is a ***netted-out number*** of the first-mentioned person for the eligible financial year mentioned in paragraph (c).

36D Liabe entity—supply of liquefied petroleum gas or liquefied natural gas to a person who quotes the person's OTN

Preliminary emissions number

- (1) For the purposes of this section, if:
 - (a) a person has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (b) the preliminary emissions number is attributable to the import, manufacture or production of an amount of liquefied petroleum gas or liquefied natural gas; and
 - (c) during an eligible financial year, the person supplies an amount of liquefied petroleum gas or liquefied natural gas to another person (the ***OTN holder***) who quotes the OTN holder's OTN in relation to the supply; and

- (d) the supplied amount is the whole or a part of the amount mentioned in paragraph (b); and
- (e) the potential greenhouse gas emissions embodied in the supplied amount have a carbon dioxide equivalence of a particular number of tonnes;

that number is a **preliminary emissions number** of the OTN holder for the eligible financial year.

Provisional emissions number and liable entity

- (2) If the OTN holder has, under subsection (1), one or more preliminary emissions numbers for the eligible financial year, then, for the purposes of this Act:
 - (a) the sum of the preliminary emissions numbers is a **provisional emissions number** of the OTN holder for the eligible financial year; and
 - (b) the OTN holder is a **liable entity** for the eligible financial year.

Reduction of provisional emissions number

- (3) If:
 - (a) the OTN holder has, under subsection (2), a provisional emissions number for an eligible financial year; and
 - (b) the OTN holder has one or more netted-out numbers for the eligible financial year (see subsections (4) and (5));
 the provisional emissions number is to be reduced (but not below zero) by the total of those netted-out numbers.

Netted-out numbers

- (4) For the purposes of this section, if:
 - (a) the OTN holder quotes the OTN holder's OTN in relation to a supply to the OTN holder of an amount of liquefied petroleum gas or liquefied natural gas; and
 - (b) during an eligible financial year, an amount of covered emissions from the operation of a facility was attributable to the non-transport combustion of the whole or a part (which whole or part is in this subsection called the **relevant portion**) of the amount mentioned in paragraph (a); and

- (c) the covered emissions mentioned in paragraph (b) count for the purposes of subsection 20(1), 21(1), 22(1), 23(1), 24(1) or 25(1); and
 - (d) the potential greenhouse gas emissions embodied in the relevant portion have a carbon dioxide equivalence of a particular number of tonnes;
- the number mentioned in paragraph (d) is a **netted-out number** of the OTN holder for the eligible financial year.
- (5) The regulations may provide that, for the purposes of this section, a number ascertained in accordance with the regulations is a **netted-out number** of an OTN holder for an eligible financial year ascertained in accordance with the regulations.

36E Liable entity—supply of liquefied petroleum gas or liquefied natural gas to a person who misuses the person’s OTN

Preliminary emissions number

- (1) For the purposes of this Act, if:
 - (a) a person has, under section 36B or 36C, a preliminary emissions number for an eligible financial year; and
 - (b) the preliminary emissions number is attributable to the import, manufacture or production of an amount of liquefied petroleum gas or liquefied natural gas; and
 - (c) during an eligible financial year, the person supplies an amount of liquefied petroleum gas or liquefied natural gas to another person (the **OTN holder**) who quotes the OTN holder’s OTN in relation to the supply; and
 - (d) the OTN holder was not permitted or required by this Act to quote the OTN holder’s OTN; and
 - (e) the supplied amount is the whole or a part of the amount mentioned in paragraph (b); and
 - (f) the potential greenhouse gas emissions embodied in the supplied amount have a carbon dioxide equivalence of a particular number of tonnes;that number is a **preliminary emissions number** of the OTN holder for the eligible financial year mentioned in paragraph (c).

Provisional emissions number and liable entity

- (2) If the OTN holder has, under subsection (1), one or more preliminary emissions numbers for the eligible financial year, then, for the purposes of this Act:
- (a) the sum of the preliminary emissions numbers is a ***provisional emissions number*** of the OTN holder for the eligible financial year; and
 - (b) the OTN holder is a ***liable entity*** for the eligible financial year.

14 Paragraph 40(3)(a)

After “natural gas”, insert “, liquefied petroleum gas or liquefied natural gas”.

15 Paragraph 41(1)(a)

After “natural gas”, insert “, liquefied petroleum gas or liquefied natural gas”.

16 Paragraph 43(2)(a)

After “natural gas”, insert “, liquefied petroleum gas or liquefied natural gas”.

17 Subsection 45(8) (heading)

Repeal the heading, substitute:

Entry for a gaseous fuel supplier

18 Subsections 45(8) to (13)

Omit “natural gas” (wherever occurring), substitute “gaseous fuel”.

19 Section 47 (heading)

Repeal the heading, substitute:

47 Notification of change of name or address of OTN holder or gaseous fuel supplier

20 Subsection 47(2) (heading)

Repeal the heading, substitute:

Gaseous fuel supplier

21 Subsection 47(2)

Omit “natural gas” (wherever occurring), substitute, “gaseous fuel”.

22 Subsection 48(1)

Omit “natural gas supplier” (first occurring), substitute “gaseous fuel supplier”.

23 Subsection 48(1)

Omit “of natural gas by the natural gas supplier”, substitute “of natural gas, liquefied petroleum gas or liquefied natural gas by the gaseous fuel supplier”.

24 Paragraph 48(1)(a)

Omit “natural gas”, substitute “gaseous fuel”.

25 Section 48(3)

Omit “natural gas”, substitute “gaseous fuel”.

26 Paragraph 49(a)

Omit “natural gas supplier in relation to a supply of natural gas by the natural gas supplier”, substitute “gaseous fuel supplier in relation to a supply of natural gas, liquefied petroleum gas or liquefied natural gas by the gaseous fuel supplier”.

27 Section 49

Omit “natural gas supplier” (last occurring), substitute “gaseous fuel supplier”.

28 Paragraph 50(a)

Omit “natural gas”, substitute “gaseous fuel”.

29 Section 51

Omit “natural gas supplier” (wherever occurring), substitute “gaseous fuel supplier”.

30 Section 52

Omit “natural gas supplier” (wherever occurring), substitute “gaseous fuel supplier”.

31 Paragraph 53(1)(a)

Omit “natural gas supplier in relation to the supply of natural gas”, substitute “gaseous fuel supplier in relation to the supply of natural gas, liquefied petroleum gas or liquefied natural gas”.

32 Paragraph 53(2)(b)

Omit “natural gas”, substitute “gaseous fuel”.

33 Section 54

Omit “natural gas” (wherever occurring), substitute “gaseous fuel”.

34 Section 55

Omit “natural gas” (wherever occurring), substitute “gaseous fuel”.

35 After section 58

Insert:

58AA Mandatory quotation of OTN—liquefied natural gas or liquefied petroleum gas

Mandatory quotation

(1) If:

- (a) during an eligible financial year, a gaseous fuel supplier supplies an amount of liquefied petroleum gas or liquefied natural gas to another person (the **recipient**); and
 - (b) the eligible financial year begins on or after 1 July 2013; and
 - (c) the conditions specified in the regulations are satisfied;
- the recipient must quote the recipient’s OTN in relation to the supply.

Notice to gaseous fuel supplier

- (2) Before the first occasion on which the recipient quotes the recipient’s OTN to the gaseous fuel supplier under this section, the recipient must:

- (a) give the gaseous fuel supplier written notice of the recipient's intention to quote the recipient's OTN under this section; and
- (b) do so at least:
 - (i) 28 days; or
 - (ii) if the gaseous fuel supplier and the recipient agree on a lesser number of days—that lesser number of days; before that first occasion.

Civil penalty provisions

- (3) Subsections (1) and (2) are ***civil penalty provisions***.

Note: Part 17 provides for pecuniary penalties for breaches of civil penalty provisions.

58AB Voluntary quotation of OTN—liquefied natural gas or liquefied petroleum gas

- (1) If:
- (a) during an eligible financial year, a gaseous fuel supplier supplies an amount of liquefied petroleum gas or liquefied natural gas to another person (the ***recipient***); and
 - (b) the eligible financial year begins on or after 1 July 2013; and
 - (c) the conditions specified in the regulations are satisfied;
- the recipient may quote the recipient's OTN in relation to the supply.

Notice to gaseous fuel supplier

- (2) Before the first occasion on which the recipient quotes the recipient's OTN to the gaseous fuel supplier under this section in the circumstances in which the gaseous fuel supplier is required by section 59 or 60 to accept the quotation, the recipient must:
- (a) give the gaseous fuel supplier written notice of the recipient's intention to quote the recipient's OTN under this section; and
 - (b) do so at least:
 - (i) 28 days; or
 - (ii) if the gaseous fuel supplier and the recipient agree on a lesser number of days—that lesser number of days; before that first occasion.

Civil penalty provision

(3) Subsection (2) is a ***civil penalty provision***.

Note: Part 17 provides for pecuniary penalties for breaches of civil penalty provisions.

36 Subsection 59(1)

Omit “natural gas”, substitute “gaseous fuel”.

37 Subsection 59(2)

Omit “or 58”, substitute “, 58 or 58AB”.

38 Subsection 59(2)

Omit “natural gas”, substitute “gaseous fuel”.

39 Subsection 59(3)

Omit “natural gas” (first occurring), substitute “gaseous fuel”.

40 Subsection 59(3)

Omit “natural gas” (last occurring), substitute “gaseous fuel”.

41 After subsection 59(3)

Insert:

(3A) If:

- (a) the OTN holder is permitted by section 58AB to quote the OTN holder’s OTN in relation to the supply; and
 - (b) the conditions specified in the regulations are satisfied;
- the gaseous fuel supplier must, by written notice given to the OTN holder, accept the quotation.

(3B) If:

- (a) the OTN holder is permitted by section 58AB to quote the OTN holder’s OTN in relation to the supply; and
 - (b) subsection (3A) does not apply;
- the gaseous fuel supplier may, by written notice given to the OTN holder, accept the quotation.

42 Subsection 59(4)

After “55B” (first occurring), insert “or 58AA”.

43 Subsection 59(4)

Omit “natural gas” (first occurring), substitute “gaseous fuel”.

44 Subsection 59(4)

After “55B” (last occurring), insert “or 58AA”.

45 Subsection 59(4)

Omit “natural gas” (last occurring), substitute “gaseous fuel”.

46 Subsection 59(5)

Omit “natural gas” (first occurring), substitute “gaseous fuel”.

47 Subsection 59(5)

After “(3),”, insert “(3A), (3B),”.

48 Paragraphs 59(5)(e) and (f)

Omit “natural gas”, substitute “gaseous fuel”.

49 Subsection 59(6)

After “(3),”, insert “(3A), (3B),”.

50 Subsection 59(7)

Omit “natural gas”, substitute “gaseous fuel”.

51 Subsection 59(8)

After “(3)”, insert “, (3A)”.

52 Subsection 60(1)

Omit “natural gas”, substitute “gaseous fuel”.

53 Subsection 60(2)

Omit “or 58”, substitute “, 58 or 58AB”.

54 Subsection 60(2)

Omit “natural gas”, substitute “gaseous fuel”.

55 Subsection 60(3)

Omit “natural gas” (first occurring), substitute “gaseous fuel”.

56 Subsection 60(3)

Omit “natural gas” (last occurring), substitute “gaseous fuel”.

57 After subsection 60(3)

Insert:

(3A) If:

- (a) the OTN holder is permitted by section 58AB to quote the OTN holder’s OTN in relation to a supply included in the class of supplies; and
- (b) the conditions specified in the regulations are satisfied; the gaseous fuel supplier must, by written notice given to the OTN holder, accept the quotation.

(3B) If:

- (a) the OTN holder is permitted by section 58AB to quote the OTN holder’s OTN in relation to a supply included in the class of supplies; and
- (b) subsection (3A) does not apply; the gaseous fuel supplier may, by written notice given to the OTN holder, accept the quotation.

58 Subsection 60(4)

After “55B” (first occurring), insert “or 58AA”.

59 Subsection 60(4)

Omit “natural gas” (first occurring), substitute “gaseous fuel”.

60 Subsection 60(4)

After “55B” (last occurring), insert “or 58AA”.

61 Subsection 60(4)

Omit “natural gas” (last occurring), substitute “gaseous fuel”.

62 Subsection 60(5)

Omit “natural gas” (first occurring), substitute “gaseous fuel”.

63 Subsection 60(5)

After “(3),”, insert “(3A), (3B),”.

64 Paragraphs 60(5)(e) and (f)

Omit “natural gas”, substitute “gaseous fuel”.

65 Subsection 60(6)

After “(3),”, insert “(3A), (3B),”.

66 Subsection 60(7)

Omit “natural gas”, substitute “gaseous fuel”.

67 Subsection 60(8)

After “(3)”, insert “, (3A)”.

68 Subsection 63(1)

After “natural gas”, insert “, liquefied petroleum gas or liquefied natural gas”.

69 Subsection 63(4)

After “natural gas” (wherever occurring), insert “, liquefied petroleum gas or liquefied natural gas”.

70 Subsections 64(1) and (3)

After “natural gas”, insert “liquefied petroleum gas or liquefied natural gas”.

71 After subsection 126(7)

Insert:

Importer or producer of liquefied petroleum gas or liquefied natural gas for non-transport use etc.

- (7A) For the purposes of this Act, if a particular number would have been the provisional emissions number of the person for the relevant eligible financial year under a particular provision of Division 3A of Part 3 if it were assumed that the relevant eligible financial year ended at the end of 31 March in the relevant eligible financial year, the number is an *interim emissions number* of the person for the relevant eligible financial year.

72 Paragraph 228(1)(a)

After “natural gas”, insert “, liquefied petroleum gas or liquefied natural gas”.

73 After paragraph 262(1)(f)

Insert:

- (fa) subsection 58AA(1);
- (fb) subsection 58AA(2);
- (fc) subsection 58AB(2);

74 After paragraph 262(1)(g)

Insert:

- (ga) subsection 59(3A);

75 After paragraph 262(1)(i)

Insert:

- (ia) subsection 60(3A);

Fuel Tax Act 2006

76 Section 2-1

After:

Fuel tax credits are also provided for fuel for use in aircraft if the fuel is covered by the Opt-in Scheme. The amount of the credit is limited to the carbon component rate that was factored into the rate of fuel tax.

insert:

Fuel tax credits are also provided for gaseous fuel that is subject to the carbon pricing mechanism if the fuel is for use in agriculture, fishing operations or forestry. The amount of the credit is the amount of the carbon charge that is embedded in the price of the fuel.

77 Subsection 41-15(1)

Omit “or Division 42” (wherever occurring), substitute “, Division 42 or Division 42A”.

78 At the end of Subdivision 41-B

Add:

41-35 No fuel tax credit under this Division or Division 42 for gaseous fuel that is subject to the carbon pricing mechanism

- (1) You are not entitled to a fuel tax credit (under this Division or Division 42) for taxable fuel if:
 - (a) the fuel is compressed natural gas, liquefied petroleum gas or liquefied natural gas; and
 - (b) the fuel is subject to the carbon pricing mechanism (within the meaning of subsection 42A-5(3) or (4)).
- (2) For the purposes of this section, *compressed natural gas*, *liquefied petroleum gas* and *liquefied natural gas* have the same respective meanings as in the *Clean Energy Act 2011*.

79 After Division 42

Insert:

Division 42A—Fuel tax credit for gaseous fuel that is subject to the carbon pricing mechanism

Table of Subdivisions

Guide to Division 42A

42A-A Fuel tax credit for gaseous fuel that is subject to the carbon pricing mechanism

Guide to Division 42A

42A-1 What this Division is about

Fuel tax credits are provided under this Division for gaseous fuel that is subject to the carbon pricing mechanism if the fuel is for use in agriculture, fishing operations or forestry.

Subdivision 42A-A—Fuel tax credit for gaseous fuel that is subject to the carbon pricing mechanism

Table of Sections

42A-5	Fuel tax credit for gaseous fuel that is subject to the carbon pricing mechanism
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42A-5 Fuel tax credit for gaseous fuel subject to the carbon pricing mechanism

- (1) You are entitled to a fuel tax credit for taxable fuel that you acquire or manufacture in, or import into, Australia to the extent that:
- (a) the fuel is compressed natural gas, liquefied petroleum gas or liquefied natural gas; and
 - (b) you acquire, manufacture or import the fuel for use in:
 - (i) *agriculture; or
 - (ii) *fishing operations; or
 - (iii) *forestry; and
 - (c) the fuel is subject to the carbon pricing mechanism (within the meaning of subsection (3) or (4)); and
 - (d) you acquire, manufacture or import the fuel for use in *carrying on your *enterprise.

Registration for GST

- (2) However, you are only entitled to the fuel tax credit if, at the time you acquire, manufacture or import the fuel, you are *registered for GST, or *required to be registered for GST.

When fuel is subject to the carbon pricing mechanism

- (3) Compressed natural gas is ***subject to the carbon pricing mechanism*** if:
- (a) a person has, under section 33 or 35 of the *Clean Energy Act 2011*, a preliminary emissions number for an eligible financial year; and
 - (b) the preliminary emissions number is attributable to the supply of the natural gas that was used to manufacture or produce the compressed natural gas.

- (4) Liquefied petroleum gas or liquefied natural gas is ***subject to the carbon pricing mechanism*** if:
- (a) a person has, under section 36B or 36C of the *Clean Energy Act 2011*, a preliminary emissions number for an eligible financial year; and
 - (b) the preliminary emissions number is attributable to the import, manufacture or production of the liquefied petroleum gas or liquefied natural gas.

Definitions

- (5) For the purposes of this section, ***compressed natural gas, liquefied petroleum gas, liquefied natural gas, preliminary emissions number, eligible financial year, natural gas, person*** and ***supply*** have the same respective meanings as in the *Clean Energy Act 2011*.

80 Section 43-1

After:

For fuel for use in aircraft that is covered by the Opt-in Scheme, the amount of the credit is reduced so that it is limited to the carbon component rate that was factored into the rate of fuel tax.

insert:

For gaseous fuel that is subject to the carbon pricing mechanism, the amount of the credit is the amount of the carbon charge that is embedded in the price of the fuel.

81 Subsection 43-5(1)

After “for taxable fuel”, insert “(other than a fuel tax credit to which you are entitled under Division 42A)”.

82 At the end of section 43-5

Add:

Fuel tax credit to which you are entitled under Division 42A

- (4) If you are entitled to a fuel tax credit under Division 42A for taxable fuel, the amount of the fuel tax credit is the amount of *carbon reduction that applies to the fuel that you acquired, manufactured or imported.
- (5) For the purposes of subsection (4), disregard paragraph 43-8(4)(b).

83 Subsection 43-8(1)

Omit “, to 3 decimal places (rounding up if the fourth decimal place is 5 or more),”.

84 After subsection 43-8(1)

Insert:

- (1A) In applying the formula in subsection (1):
 - (a) first, calculate, to 3 decimal places (rounding up if the fourth decimal place is 5 or more), the product of:
 - (i) the factor known as carbon price; and
 - (ii) the factor known as carbon emission rate; and
 - (b) second, multiply the result of that calculation by the factor known as quantity of fuel.

85 Section 110-5 (definition of *taxable fuel*)

Repeal the definition, substitute:

taxable fuel means:

- (a) fuel in respect of which duty is payable under:
 - (i) the *Excise Act 1901* and the *Excise Tariff Act 1921*; or
 - (ii) the *Customs Act 1901* and the *Customs Tariff Act 1995*;or
- (b) compressed natural gas, liquefied petroleum gas, or liquefied natural gas, that is subject to the carbon pricing mechanism (within the meaning of subsection 42A-5(3) or (4));

but does not include fuel covered by:

- (c) item 15, 20 or 21 of the Schedule to the *Excise Tariff Act 1921*; or

- (d) any imported goods that would be classified to item 15 of the Schedule to the *Excise Tariff Act 1921*, if the goods had been manufactured in Australia.

For the purposes of paragraph (b) of this definition, ***compressed natural gas, liquefied petroleum gas and liquefied natural gas*** have the same respective meanings as in the *Clean Energy Act 2011*.

Note: Item 15 of the Schedule to the *Excise Tariff Act 1921* deals with certain petroleum based oils and greases. Item 20 of that Schedule deals with certain stabilised crude petroleum oils. Item 21 of that Schedule deals with certain condensate.

Schedule 3—Amendments relating to the carbon farming initiative

Carbon Credits (Carbon Farming Initiative) Act 2011

1 Paragraph 15(2)(e)

Omit “first crediting period”, substitute “first reporting period”.

2 Subsection 28(2)

Omit “first crediting period”, substitute “first reporting period”.

3 Subsection 31(1)

Omit “first crediting period”, substitute “first reporting period”.

4 Paragraph 34(2)(a)

Omit “first crediting period”, substitute “first reporting period”.

5 Subsections 106(10) and (11)

Repeal the subsections.

6 Subsection 122(3)

Repeal the subsection, substitute:

(3) If:

- (a) a methodology determination is made on or before 30 June 2013; and
- (b) an application under section 108 for endorsement of a proposal for the determination was made on or before 30 June 2012;

the determination may be expressed to have come into force at the start of 1 July 2010.

7 Paragraph 168(1)(h)

Omit “first crediting period”, substitute “first reporting period”.

8 Transitional—declarations under section 27 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*

If:

- (a) before the commencement of this item, a declaration was made under section 27 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* in relation to an offsets project; and
- (b) immediately before the commencement of this item, the declaration was subject to a condition that all regulatory approvals must be obtained for the project before the end of the first crediting period for the project;

the declaration has effect, after the commencement of this item, as if the condition were instead a condition that all regulatory approvals must be obtained for the project before the end of the first reporting period for the project.

Schedule 4—Amendments relating to the Australian National Registry of Emissions Units

Australian National Registry of Emissions Units Act 2011

1 Section 4

Insert:

business day means a day that is not:

- (a) a Saturday; or
- (b) a Sunday; or
- (c) a public holiday in the Australian Capital Territory.

2 After subsection 27(3)

Insert:

- (3A) Regulations made for the purposes of subsection (1) may:
 - (a) make provision for identifying Registry accounts that are ***restricted Registry accounts*** for the purposes of this section; and
 - (b) restrict or limit the operation of restricted Registry accounts.
- (3B) Regulations made for the purposes of subsection (3A) may:
 - (a) prohibit, restrict or limit the transfer of units from a restricted Registry account; or
 - (b) prohibit, restrict or limit the transfer of units to a restricted Registry account; or
 - (c) prohibit, restrict or limit the issue of carbon units to a restricted Registry account.
- (3C) Subsection (3B) does not limit subsection (3A).
- (3D) Subsections (3A) and (3B) do not limit subsection (1).
- (3E) Section 28C does not limit subsections (3A) and (3B) of this section.

3 Subsection 28A(2)

Omit “not exceeding 48 hours”, substitute “that ends not later than the end of the fifth business day after the day on which the instruction was received”.

Schedule 5—Amendments relating to the Clean Energy Finance Corporation

Australian Renewable Energy Agency Act 2011

1 After section 73

Insert:

73A Disclosure of information to Clean Energy Finance Corporation

ARENA may disclose information to the Clean Energy Finance Corporation if the disclosure will enable or assist the Clean Energy Finance Corporation to perform or exercise any of its functions or powers.

Clean Energy Regulator Act 2011

2 After paragraph 49(1)(s)

Insert:

(sa) the Clean Energy Finance Corporation;

*[Minister's second reading speech made in—
House of Representatives on 23 May 2012
Senate on 18 June 2012]*