





# **Clean Energy Legislation (Carbon Tax Repeal) Act 2014**

**No. 83, 2014**

**An Act to repeal the *Clean Energy Act 2011*, 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 (Carbon Tax Repeal) Act 2014

No. 83, 2014

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## An Act to repeal the *Clean Energy Act 2011*, and for other purposes

[Assented to 17 July 2014]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	17 July 2014
2. Schedule 1, Parts 1 and 2	1 July 2014.	1 July 2014
3. Schedule 1, Part 3, Divisions 1 to 4	1 July 2014.	1 July 2014
4. Schedule 1, Part 3, Division 5	The day this Act receives the Royal Assent.	17 July 2014
5. Schedule 1, Part 4	The day after this Act receives the Royal Assent. However, if this Act receives the Royal Assent before 30 June 2014, the provision(s) commence on 1 July 2014.	18 July 2014
6. Schedule 2	The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 January 2014.	18 July 2014 (paragraph (a) applies)
7. Schedule 3	The day after this Act receives the Royal Assent.	18 July 2014
8. Schedule 4	1 July 2014.	1 July 2014
9. Schedule 5	The day this Act receives the Royal Assent.	17 July 2014
Note:	This table relates only to the provisions of this Act as originally enacted.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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Repeal of the carbon tax**

### **Part 1—Repeal of Acts**

#### ***Clean Energy Act 2011***

##### **1 The whole of the Act**

Repeal the Act.

#### ***Clean Energy (Charges—Customs) Act 2011***

##### **2 The whole of the Act**

Repeal the Act.

#### ***Clean Energy (Charges—Excise) Act 2011***

##### **3 The whole of the Act**

Repeal the Act.

#### ***Clean Energy (Unit Issue Charge—Auctions) Act 2011***

##### **4 The whole of the Act**

Repeal the Act.

#### ***Clean Energy (Unit Issue Charge—Fixed Charge) Act 2011***

##### **5 The whole of the Act**

Repeal the Act.

#### ***Clean Energy (Unit Shortfall Charge—General) Act 2011***

##### **6 The whole of the Act**

Repeal the Act.

## **Part 2—Amendments**

### ***A New Tax System (Goods and Services Tax) Act 1999***

#### **7 Section 195-1**

Insert:

***eligible Australian carbon credit unit*** means:

- (a) a Kyoto Australian carbon credit unit (within the meaning of the *Carbon Credits (Carbon Farming Initiative) Act 2011*);  
or
- (b) a non-Kyoto Australian carbon credit unit (within the meaning of that Act) issued in relation to an eligible offsets project (within the meaning of that Act) for a reporting period (within the meaning of that Act), where:
  - (i) if it were assumed that the reporting period had ended before the Kyoto abatement deadline (within the meaning of that Act), a Kyoto Australian carbon credit unit would have been issued in relation to the project for the reporting period instead of the non-Kyoto Australian carbon credit unit; and
  - (ii) the non-Kyoto Australian carbon credit unit is not of a kind specified in the regulations; or
- (c) an Australian carbon credit unit (within the meaning of that Act) of a kind specified in the regulations.

Subparagraph (b)(ii) and paragraph (c) do not, by implication, limit the application of subsection 13(3) of the *Legislative Instruments Act 2003* to other instruments under this Act.

#### **8 Section 195-1 (definition of *eligible emissions unit*)**

Repeal the definition, substitute:

***eligible emissions unit*** means:

- (a) an \*eligible international emissions unit; or
- (b) an \*eligible Australian carbon credit unit.

#### **9 Section 195-1**

Insert:

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*eligible international emissions unit* has the same meaning as in the *Australian National Registry of Emissions Units Act 2011*.

***Anti-Money Laundering and Counter-Terrorism Financing Act 2006***

**10 Section 5 (definition of *carbon unit*)**

Repeal the definition.

**11 Subsection 6(2) (paragraph (baa) of the cell at table item 33, column headed “Provision of a designated service”)**

Repeal the paragraph.

**12 Subsection 6(2) (paragraph (d) of the cell at table item 33, column headed “Provision of a designated service”)**

Omit “carbon units,”.

***Australian National Registry of Emissions Units Act 2011***

**13 Section 3**

Omit:

- Entries may be made in Registry accounts for:
  - (a) carbon units; and
  - (b) Australian carbon credit units; and
  - (c) Kyoto units; and
  - (d) prescribed international units.
- This Act sets out rules about dealings with:
  - (a) Kyoto units; and
  - (b) prescribed international units.

substitute:

- Entries may be made in Registry accounts for:
  - (a) Australian carbon credit units; and
  - (b) Kyoto units.
- This Act sets out rules about dealings with Kyoto units.

**14 Section 4 (definition of *Australian-issued international unit*)**

Repeal the definition.

**15 Section 4 (definition of *benchmark average auction charge*)**

Repeal the definition.

**16 Section 4 (definition of *carbon unit*)**

Repeal the definition.

**17 Section 4 (definition of *Commonwealth foreign registry account*)**

Repeal the definition.

**18 Section 4 (paragraph (d) of the definition of *eligible international emissions unit*)**

Omit “rules; or”, substitute “rules.”.

**19 Section 4 (paragraph (e) of the definition of *eligible international emissions unit*)**

Repeal the paragraph.

**20 Section 4 (definition of *European allowance unit*)**

Repeal the definition.

**21 Section 4 (definition of *European Union Greenhouse Gas Emission Allowance Trading Directive*)**

Repeal the definition.

**22 Section 4 (definition of *fixed charge year*)**

Repeal the definition.

**23 Section 4 (definition of *foreign account*)**

Repeal the definition, substitute:

*foreign account*, when used in relation to a Kyoto unit, means an account kept within a foreign Kyoto registry.

**24 Section 4 (definition of *foreign government body*)**

Repeal the definition.

**25 Section 4 (definition of *hold*)**

Omit “a carbon unit or”.

**26 Section 4 (definition of *Information Database*)**

Repeal the definition.

**27 Section 4 (definition of *international arrangement*)**

Repeal the definition.

**28 Section 4 (definition of *international organisation*)**

Repeal the definition.

**29 Section 4 (definition of *issue*)**

Repeal the definition, substitute:

*issue*, in relation to an Australian carbon credit unit, has the same meaning as in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

**30 Section 4 (definition of *prescribed international unit*)**

Repeal the definition.

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**31 Section 4 (definition of *quarter*)**

Repeal the definition.

**32 Section 4 (paragraph (aa) of the definition of *registered holder*)**

Repeal the paragraph.

**33 Section 4 (paragraph (b) of the definition of *registered holder*)**

Omit “unit; or”, substitute “unit.”.

**34 Section 4 (paragraph (c) of the definition of *registered holder*)**

Repeal the paragraph.

**35 Section 4 (definition of *relinquish*)**

Repeal the definition.

**36 Section 4 (definition of *transfer*)**

Repeal the definition, substitute:

*transfer*, in relation to a Kyoto unit, has the meaning given by section 33.

**37 Section 4 (definition of *vintage year*)**

Repeal the definition.

**38 Paragraph 9(4)(a)**

Omit “carbon units, Australian carbon credit units and prescribed international units”, substitute “Australian carbon credit units”.

**39 Paragraph 11(5)(a)**

Omit “carbon units or”.

**40 Section 14A**

Repeal the section.

**41 Paragraph 15(2)(aa)**

Repeal the paragraph.

**42 Paragraph 15(2)(c)**

Omit “account; and”, substitute “account.”.

**43 Paragraph 15(2)(d)**

Repeal the paragraph.

**44 Subparagraph 16(2)(b)(ii)**

Omit “(4), (5) and (6)”, substitute “(4) and (6)”.

**45 Subsection 16(2A)**

Repeal the subsection (not including the heading).

**46 Subsection 16(5)**

Repeal the subsection.

**47 Paragraph 16(7)(b)**

Omit “or (5)”.

**48 Subsection 17(1A)**

Repeal the subsection.

**49 Subsection 17(3)**

Repeal the subsection.

**50 Paragraph 19(3A)(a)**

Omit “or 49A”.

**51 Subsection 19(3B)**

Repeal the subsection.

**52 Section 21**

Repeal the section.

**53 Paragraph 22(4A)(a)**

Omit “or 49A”.

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**54 Subsection 22(4B)**

Repeal the subsection.

**55 Subparagraph 26(3)(a)(ia)**

Repeal the subparagraph.

**56 Subparagraph 26(3)(a)(ii)**

Omit “or”.

**57 Subparagraph 26(3)(a)(iii)**

Repeal the subparagraph.

**58 Paragraph 27(3B)(b)**

Omit “account; or”, substitute “account.”.

**59 Paragraph 27(3B)(c)**

Repeal the paragraph.

**60 Paragraph 28A(1)(aa)**

Repeal the paragraph.

**61 Paragraph 28A(1)(b)**

Omit “or”.

**62 Paragraph 28A(1)(c)**

Repeal the paragraph.

**63 Paragraph 28A(4)(aa)**

Repeal the paragraph.

**64 Paragraph 28B(1)(aa)**

Repeal the paragraph.

**65 Paragraph 28B(1)(b)**

Omit “or”.

**66 Paragraph 28B(1)(c)**

Repeal the paragraph.

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**67 Paragraph 28B(11)(aa)**

Repeal the paragraph.

**68 Subsection 28B(11) (paragraph (c) of the note)**

Omit “Act; and”, substitute “Act.”.

**69 Subsection 28B(11) (paragraphs (d) and (e) of the note)**

Repeal the paragraphs.

**70 Paragraph 28C(17)(aa)**

Repeal the paragraph.

**71 Subparagraph 28D(5)(a)(ii)**

Omit “carbon units or”.

**72 Paragraph 28D(5)(b)**

Repeal the paragraph, substitute:

- (b) a notice to relinquish Australian carbon credit units under section 175 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* does not have effect.

**73 Paragraph 28D(16)(aa)**

Repeal the paragraph.

**74 Part 4**

Repeal the Part.

**75 Section 58**

Omit:

- |   |
|---|
| <ul style="list-style-type: none"><li>• The Regulator must publish certain information about:<ul style="list-style-type: none"><li>(a) the holders of Registry accounts; and</li><li>(b) carbon units; and</li><li>(c) Kyoto units; and</li></ul></li></ul> |
|---|

(d) prescribed international units.

substitute:

- The Regulator must publish certain information about:
  - (a) the holders of Registry accounts; and
  - (b) Kyoto units.

**76 Section 59A**

Repeal the section.

**77 Subsections 61(3) to (6)**

Repeal the subsections.

**78 Section 61A**

Repeal the section.

**79 Sections 63 to 63G**

Repeal the sections.

**80 Section 64**

Omit:

- If a person is the registered holder of one or more carbon units, the person may request the Regulator to cancel any or all of those units. However, this rule does not apply to a unit that was issued for a fixed charge and has a vintage year that is a fixed charge year.

**81 Section 64**

Omit:

- If a person is the registered holder of one or more prescribed international units, the person may request the Regulator to cancel any or all of those units.

**82 Section 64A**

Repeal the section.

**83 Section 66**

Repeal the section.

**84 Parts 6A and 6B**

Repeal the Parts.

**85 Paragraph 79(1)(c)**

Omit “27(4);”, substitute “27(4).”.

**86 Paragraph 79(1)(d)**

Repeal the paragraph.

**87 Section 82 (table item 2)**

Omit “or 53”.

**88 Section 82 (table item 3)**

Repeal the item.

**89 Section 82 (table items 8 and 9)**

Omit “or 21”.

**90 Section 82 (table items 15 and 16)**

Repeal the items.

**91 Section 86A**

Repeal the section.

***Australian Securities and Investments Commission Act 2001***

**92 Paragraph 12BAA(7)(ka)**

Repeal the paragraph.

**93 Paragraph 12BAB(1)(g)**

Omit “a carbon unit,”.

**94 At the end of the Act**

Add:

**Part 20—Transitional provisions relating to the  
Clean Energy Legislation (Carbon Tax  
Repeal) Act 2014**

**295 Definition**

In this Part:

*designated carbon unit day* has the same meaning as in Part 3 of Schedule 1 to the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*.

**296 Transitional—carbon units issued before the designated carbon unit day**

Despite the amendments of this Act made by Schedule 1 to the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*, this Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

***Clean Energy Regulator Act 2011***

**95 Section 3**

Omit:

- |   |
|---|
| <ul style="list-style-type: none"><li>• The Regulator has such functions as are conferred on it by or under:<ul style="list-style-type: none"><li>(a) the <i>Clean Energy Act 2011</i>; and</li><li>(b) the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>; and</li></ul></li></ul> |
|---|

- (c) the *National Greenhouse and Energy Reporting Act 2007*; and
- (d) the *Renewable Energy (Electricity) Act 2000*; and
- (e) the *Australian National Registry of Emissions Units Act 2011*.

substitute:

- The Regulator has such functions as are conferred on it by or under:
  - (a) the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and
  - (b) the *National Greenhouse and Energy Reporting Act 2007*; and
  - (c) the *Renewable Energy (Electricity) Act 2000*; and
  - (d) the *Australian National Registry of Emissions Units Act 2011*.

#### **96 Section 4**

Insert:

***Climate Change Convention*** means the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992, as amended and in force for Australia from time to time.

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 2 ([1994] ATS 2). In 2013, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

#### **97 Section 4 (paragraphs (b) to (h) of the definition of *climate change law*)**

Repeal the paragraphs.

**98 Section 4**

Insert:

*greenhouse gas* has the same meaning as in the *National Greenhouse and Energy Reporting Act 2007*.

**99 Section 4 (definition of *international agreement*)**

Repeal the definition, substitute:

*international agreement* means an agreement whose parties are:

- (a) Australia and a foreign country; or
- (b) Australia and 2 or more foreign countries.

**100 Section 4 (definition of *international climate change agreement*)**

Repeal the definition, substitute:

*international climate change agreement* means:

- (a) the Climate Change Convention; or
- (b) any other international agreement, signed on behalf of Australia, that:
  - (i) relates to climate change; and
  - (ii) imposes obligations on Australia to take action to reduce greenhouse gas emissions; or
- (c) an international agreement, signed on behalf of Australia, that:
  - (i) relates to climate change; and
  - (ii) is specified in a legislative instrument made by the Minister for the purposes of this definition.

**101 Section 4 (paragraph (a) of the definition of *objectives of the Regulator*)**

Repeal the paragraph.

**102 Section 4 (definition of *prescribed international unit*)**

Repeal the definition.

**103 Paragraph 41(3)(a)**

Repeal the paragraph.

**104 Paragraph 49(1)(z)**

Repeal the paragraph, substitute:

- (z) a person or body responsible for the administration of a scheme that involves the issue or registration of prescribed eligible carbon units;

***Corporations Act 2001***

**105 Section 9 (definition of *carbon unit*)**

Repeal the definition.

**106 Paragraph 764A(1)(kaa)**

Repeal the paragraph.

**107 At the end Chapter 10**

Add:

**Part 10.23—Transitional provisions relating to the  
Clean Energy Legislation (Carbon Tax  
Repeal) Act 2014**

**1542 Definition**

In this Part:

*designated carbon unit day* has the same meaning as in Part 3 of Schedule 1 to the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*.

**1543 Transitional—carbon units issued before the designated  
carbon unit day**

Despite the amendments of this Act made by Schedule 1 to the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*, this Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

**1544 Transitional—variation of conditions on Australian financial services licences**

*Scope*

- (1) This section applies if, as at the end of the designated carbon unit day, an Australian financial services licence is subject to a condition that authorises the financial services licensee to provide financial services in relation to financial products that are carbon units.

*Variation*

- (2) After that day, subsections 914A(3), (4) and (5) do not apply in relation to a variation of the condition, if the only effect of the variation is to remove the authorisation to provide financial services in relation to financial products that are carbon units.

**1545 Transitional—immediate cancellation of Australian financial services licences**

Section 915B applies, on and after the designated carbon unit day, as if the following subsection was added at the end of the section:

*Licence relating to carbon units*

- (5) ASIC may cancel an Australian financial services licence held by a person, by giving written notice to the person, if the licence only authorises the person to provide financial services that relate to financial products that are carbon units.

**1546 Transitional—statements of reasons for cancellation of Australian financial services licences**

Section 915G does not apply to a cancellation under subsection 915B(5) (as inserted by section 1545).

***Fuel Tax Act 2006***

**108 Section 2-1**

Omit:

This Act provides a single system of fuel tax credits. Fuel tax credits are paid to reduce the incidence of fuel tax levied on taxable fuels, ensuring that, generally, fuel tax is effectively only applied to:

- (a) fuel used in private vehicles and for certain other private purposes; and
- (b) fuel used on-road in light vehicles for business purposes.

For fuel that is not \*covered by the Opt-in Scheme, the fuel tax credit entitlement is (with some exceptions) reduced by an amount equivalent to what the carbon price on the fuel emissions would be (if those emissions were subject to a carbon price). For fuel that is covered by that Scheme, the entitlement is not so reduced.

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.

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.

substitute:

This Act provides a single system of fuel tax credits. Fuel tax credits are paid to reduce or remove the incidence of fuel tax levied on taxable fuels, ensuring that, generally, fuel tax is effectively only applied to:

- (a) fuel used in private vehicles and for certain other private purposes; and
- (b) fuel used on-road in light vehicles for business purposes.

### **109 Subsection 40-5(2)**

After “reduce”, insert “or remove”.

### **110 Subsections 40-5(3) and (4)**

Repeal the subsections.

**111 Section 41-1**

Omit:

However, fuel tax credits are denied under Subdivision 41-B if:

- (a) another person is already entitled to a fuel tax credit in respect of the fuel; or
- (b) the fuel is for use on-road in light vehicles; or
- (c) the fuel is for use in vehicles that do not meet certain environmental criteria; or
- (d) the fuel is for use in aircraft, and is not covered by the Opt-in Scheme.

substitute:

However, fuel tax credits are denied under Subdivision 41-B if:

- (a) another person is already entitled to a fuel tax credit in respect of the fuel; or
- (b) the fuel is for use on-road in light vehicles; or
- (c) the fuel is for use in vehicles that do not meet certain environmental criteria; or
- (d) the fuel is for use in aircraft.

**112 Paragraph 41-5(3)(b)**

Omit “vehicle, vessel or aircraft”, substitute “vehicle (or vessel)”.

**113 Subsection 41-15(1)**

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

**114 Subparagraph 41-25(2)(a)(ii)**

Omit “\*agricultural property”, substitute “agricultural property”.

**115 Section 41-30 (heading)**

Repeal the heading, substitute:

**41-30 No fuel tax credit for fuel to be used in an aircraft**

**116 Subsection 41-30(1)**

Omit “(1)”.

**117 Subsection 41-30(2)**

Repeal the subsection.

**118 Section 41-35**

Repeal the section.

**119 Division 42A**

Repeal the Division.

**120 Section 43-1**

Omit:

The amount of your credit for taxable fuel is the amount of fuel tax that was payable on the fuel:

- (a) reduced to take account of certain grants and subsidies that were payable in respect of the fuel (as the grants or subsidies reduced the amount of fuel tax that effectively applied to the fuel); and
- (b) for fuel that is not covered by the Opt-in Scheme—reduced (with some exceptions) to take account of what the carbon price on the fuel emissions would be (if those emissions were subject to a carbon price).

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.

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.

substitute:

The amount of your credit for taxable fuel is the amount of fuel tax that was payable on the fuel, reduced to take account of certain grants and subsidies that were payable in respect of the fuel (as the grants or subsidies reduced the amount of fuel tax that effectively applied to the fuel).

### **121 Subsection 43-5(1)**

Repeal the subsection, substitute:

- (1) The \*amount of your tax fuel credit for taxable fuel is the amount of \*effective fuel tax that is payable on the fuel.

Note: The amount of the credit may be reduced under section 43-10.

### **122 Subsections 43-5(4) and (5)**

Repeal the subsections.

### **123 Section 43-8**

Repeal the section.

### **124 Section 43-10 (heading)**

Repeal the heading, substitute:

### **43-10 Reducing the amount of your fuel tax credit**

### **125 Subsection 43-10(1A)**

Repeal the subsection.

### **126 Section 43-11**

Repeal the section.

### **127 Subdivision 43-B**

Repeal the Subdivision.

**128 Section 110-5 (definition of *agricultural activity*)**

Repeal the definition.

**129 Section 110-5 (definition of *agricultural construction activity*)**

Repeal the definition.

**130 Section 110-5 (definition of *agricultural property*)**

Repeal the definition.

**131 Section 110-5 (definition of *agricultural soil/water activity*)**

Repeal the definition.

**132 Section 110-5 (definition of *agricultural waste activity*)**

Repeal the definition.

**133 Section 110-5 (definition of *agriculture*)**

Repeal the definition.

**134 Section 110-5 (definition of *approved catchment area*)**

Repeal the definition.

**135 Section 110-5 (definition of *carbon reduction*)**

Repeal the definition.

**136 Section 110-5 (definition of *CNG*)**

Repeal the definition.

**137 Section 110-5 (definition of *core agricultural activity*)**

Repeal the definition.

**138 Section 110-5 (definition of *covered by the Opt-in Scheme*)**

Repeal the definition.

**139 Section 110-5 (definition of *earthworks*)**

Repeal the definition.

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**140 Section 110-5 (definition of *fish*)**

Repeal the definition.

**141 Section 110-5 (definition of *fishing operations*)**

Repeal the definition.

**142 Section 110-5 (definition of *forestry*)**

Repeal the definition.

**143 Section 110-5 (definition of *half-year*)**

Repeal the definition.

**144 Section 110-5 (definition of *horticulture*)**

Repeal the definition.

**145 Section 110-5 (definition of *livestock*)**

Repeal the definition.

**146 Section 110-5 (definition of *livestock activity*)**

Repeal the definition.

**147 Section 110-5 (definition of *LNG*)**

Repeal the definition.

**148 Section 110-5 (definition of *pearling operations*)**

Repeal the definition.

**149 Section 110-5 (definition of *port*)**

Repeal the definition.

**150 Section 110-5 (definition of *processing of fish*)**

Repeal the definition.

**151 Section 110-5 (definition of *public authority*)**

Repeal the definition.

**152 Section 110-5 (definition of *renewable diesel*)**

Repeal the definition.

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**153 Section 110-5 (definition of *sundry agricultural activity*)**

Repeal the definition.

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

Repeal the definition, substitute:

*taxable fuel* means fuel in respect of which duty is payable under:

- (a) the *Excise Act 1901* and the *Excise Tariff Act 1921*; or
- (b) the *Customs Act 1901* and the *Customs Tariff Act 1995*;

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.

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.

***Fuel Tax (Consequential and Transitional Provisions) Act 2006***

**155 Subitem 12(2A) of Schedule 3**

Repeal the subitem.

***Income Tax Assessment Act 1997***

**156 Section 12-5 (table item headed “clean energy”)**

Repeal the item.

**157 Section 26-18**

Repeal the section.

**158 Section 104-5 (table item relating to CGT event K1, column headed “Event number and description”)**

Omit “\*carbon unit, an \*international emissions unit”, substitute “\*Kyoto unit”.

**159 Subparagraphs 104-205(1)(a)(i) and (ii)**

Repeal the subparagraphs.

**160 Subparagraph 104-205(1)(a)(iii)**

Omit “an \*international emissions unit”, substitute “a \*Kyoto unit”.

**161 Subparagraph 104-205(1)(a)(iv)**

Omit “an \*international emissions unit”, substitute “a Kyoto unit”.

**162 Section 112-97 (table item 18A, column headed “In this situation”)**

Omit “an \*international emissions unit”, substitute “a \*Kyoto unit”.

**163 Subsection 118-15(2)**

Repeal the subsection.

**164 Paragraph 420-10(a)**

Repeal the paragraph.

**165 Paragraph 420-10(c)**

Repeal the paragraph.

**166 Subsection 420-15(1) (note)**

Repeal the note.

**167 Subsection 420-15(3)**

Repeal the subsection.

**168 Subsection 420-20(3)**

Repeal the subsection (not including the note), substitute:

- (3) This section does not apply to the issue of an \*Australian carbon credit unit under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

**169 Subparagraphs 420-21(1)(a)(i) and (ii)**

Repeal the subparagraphs.

**170 Subparagraph 420-21(1)(a)(iii)**

Omit “an \*international emissions unit”, substitute “a \*Kyoto unit”.

**171 Subparagraph 420-21(1)(a)(iv)**

Omit “an international emissions unit”, substitute “a Kyoto unit”.

**172 Subsection 420-21(1) (example)**

Omit “of international emissions unit”, substitute “of Kyoto unit”.

**173 Subparagraphs 420-21(2)(a)(i) and (ii)**

Repeal the subparagraphs.

**174 Subparagraph 420-21(2)(a)(iii)**

Omit “an \*international emissions unit”, substitute “a \*Kyoto unit”.

**175 Subparagraph 420-21(2)(a)(iv)**

Omit “an international emissions unit”, substitute “a Kyoto unit”.

**176 Subparagraph 420-35(b)(i)**

Repeal the subparagraph.

**177 Subparagraph 420-35(b)(ii)**

Omit “an \*international emissions unit”, substitute “a \*Kyoto unit”.

**178 Section 420-35 (example)**

Omit “of international emissions unit”, substitute “of Kyoto unit”.

**179 Section 420-43**

Repeal the section.

**180 Subsection 420-51(1)**

Omit “(1)”.

**181 Subsection 420-51(2)**

Repeal the subsection.

**182 Subparagraph 420-52(a)(i)**

Repeal the subparagraph.

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**183 Paragraph 420-52(b)**

Repeal the paragraph.

**184 Subsection 420-55(6)**

Repeal the subsection.

**185 Subsection 420-57(9)**

Repeal the subsection.

**186 Section 420-58**

Repeal the section.

**187 Subsections 420-60(1) and (2)**

Repeal the subsections.

**188 Subsection 420-60(4)**

Omit all the words from and including “If a \*registered” to and including “*cost* of the unit”, substitute “The *cost* of a \*registered emissions unit (other than an \*Australian carbon credit unit)”.

**189 Subsection 420-65(3)**

Repeal the subsection.

**190 Subsection 420-70(3)**

Repeal the subsection.

**191 Subsection 995-1(1) (definition of *carbon unit*)**

Repeal the definition.

**192 Subsection 995-1(1) (definition of *free carbon unit*)**

Repeal the definition.

**193 Subsection 995-1(1) (definition of *international emissions unit*)**

Repeal the definition.

**194 Subsection 995-1(1) (definition of *prescribed international unit*)**

Repeal the definition.

**195 Subsection 995-1(1) (definition of *vintage year*)**

Repeal the definition.

***National Greenhouse and Energy Reporting Act 2007***

**196 Section 3 (heading)**

Repeal the heading, substitute:

**3 Object**

**197 Subsection 3(1)**

Omit “(1) The first object”, substitute “The object”.

**198 Subsection 3(2)**

Repeal the subsection.

**199 Subsection 4(1)**

Omit “(1) This Act (except to the extent to which it underpins the *Clean Energy Act 2011*)”, substitute “This Act”.

**200 Subsection 4(2)**

Repeal the subsection.

**201 Subsection 5(1)**

Omit “(1)”.

**202 Before subparagraph 5(1)(a)(ii)**

Insert:

- (i) greenhouse gas emissions; or

**203 Subsection 5(2)**

Repeal the subsection.

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**204 Section 7 (definition of *carbon dioxide equivalence*)**

Repeal the definition, substitute:

*carbon dioxide equivalence*, of an amount of greenhouse gas, means the amount of the gas multiplied by a value specified in the regulations in relation to that kind of greenhouse gas.

**205 Section 7**

Insert:

*designated financial year* means:

- (a) the financial year beginning on 1 July 2012; or
- (b) a later financial year.

**206 Section 7 (definition of *designated fuel*)**

Repeal the definition.

**207 Section 7 (definition of *eligible financial year*)**

Repeal the definition.

**208 Section 7 (definition of *emissions number*)**

Repeal the definition.

**209 Section 7 (definition of *financial control liability transfer certificate*)**

Repeal the definition.

**210 Section 7 (definition of *fixed charge year*)**

Repeal the definition.

**211 Section 7 (definition of *foreign country*)**

Repeal the definition, substitute:

*foreign country* includes a region where:

- (a) the region is a colony, territory or protectorate of a foreign country; or
- (b) the region is part of a foreign country; or
- (c) the region is under the protection of a foreign country; or

- (d) a foreign country exercises jurisdiction or control over the region; or
- (e) a foreign country is responsible for the region's international relations.

**212 Section 7**

Insert:

*foreign corporation* means a corporation that:

- (a) is incorporated outside Australia; or
- (b) is an authority of a foreign country.

**213 Section 7 (definition of *foreign person*)**

Repeal the definition.

**214 Section 7**

Insert:

*group entity* means a corporation that is a member of a controlling corporation's group.

**215 Section 7 (definition of *interim emissions number*)**

Repeal the definition.

**216 Section 7 (definition of *liable entity*)**

Repeal the definition.

**217 Section 7 (definition of *liquefied natural gas*)**

Repeal the definition.

**218 Section 7 (definition of *liquefied petroleum gas*)**

Repeal the definition.

**218A Section 7 (definition of *local governing body*)**

Repeal the definition.

**219 Section 7 (definition of *natural gas supplier*)**

Repeal the definition.

**220 Section 7 (definition of *non-group entity*)**

Repeal the definition.

**221 Section 7 (definition of *operational control*)**

Omit “11A, 11B or 11C”, substitute “11A or 11B”.

**222 Section 7 (definition of *Opt-in Scheme*)**

Repeal the definition.

**223 Section 7 (definition of *OTM*)**

Repeal the definition.

**224 Section 7 (definition of *person*)**

Repeal the definition.

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

Repeal the definition.

**226 Section 7 (definition of *provisional emissions number*)**

Repeal the definition.

**227 Section 7 (definition of *supply*)**

Repeal the definition.

**228 Section 7 (definition of *taxable fuel*)**

Repeal the definition.

**229 Section 7 (definition of *trust*)**

Repeal the definition.

**230 Section 7 (definition of *trustee*)**

Repeal the definition.

**231 Section 7 (definition of *trust estate*)**

Repeal the definition.

**232 Section 7 (definition of *unit shortfall charge*)**

Repeal the definition.

**233 Subsection 7A(1)**

Omit “and the *Clean Energy Act 2011*”.

**234 Sections 7B and 7C**

Repeal the sections.

**235 Subsection 8(1)**

Omit “and the *Clean Energy Act 2011*”.

**236 Subsection 9(1)**

Omit “and the *Clean Energy Act 2011*”.

**237 Paragraph 9(1)(b)**

Omit “or 54A”.

**238 Section 10 (heading)**

Repeal the heading, substitute:

**10 Emissions, energy production, energy consumption etc.**

**239 Subsection 10(1)**

Omit “or the *Clean Energy Act 2011*”.

**240 Subsection 10(3)**

Omit “and the *Clean Energy Act 2011*”.

**241 Subsections 10(4) to (9)**

Repeal the subsections.

**242 Subsection 11(1)**

Omit “and the *Clean Energy Act 2011*”.

**243 Subsection 11(1)**

Omit “person” (wherever occurring), substitute “group entity”.

**244 Paragraph 11(1)(b)**

Omit “or 55A”.

**245 Subsection 11(3)**

Omit “and the *Clean Energy Act 2011*”.

**246 Subsection 11(3)**

Omit “person”, substitute “group entity”.

**247 Subsection 11(4)**

Omit “11A, 11B and 11C”, substitute “11A and 11B”.

**248 Section 11A (heading)**

Repeal the heading, substitute:

**11A Operational control—group entity with greatest authority**

**249 Subsection 11A(1)**

Omit “an eligible financial year”, substitute “a designated financial year”.

**250 Paragraph 11A(1)(a)**

Omit “persons”, substitute “group entities”.

**251 Paragraph 11A(1)(b)**

Omit “person”, substitute “group entity”.

**252 Paragraph 11A(1)(c)**

Omit “or 55A”.

**253 Subsection 11A(2)**

Omit “person”, substitute “group entity”.

**254 Subsection 11A(2)**

Omit “and the *Clean Energy Act 2011*”.

**255 Section 11B (heading)**

Repeal the heading, substitute:

**11B Operational control—nominated group entity**

**256 Paragraph 11B(1)(a)**

Omit “more persons”, substitute “more group entities”.

**257 Paragraph 11B(1)(a)**

Omit “*relevant persons*”, substitute “*relevant group entities*”.

**258 Paragraph 11B(1)(b)**

Omit “person”, substitute “group entity”.

**259 Paragraph 11B(1)(c)**

Omit “or 55A”.

**260 Paragraph 11B(1)(d)**

Omit “an eligible financial year”, substitute “a designated financial year”.

**261 Subsection 11B(2)**

Omit “persons”, substitute “group entities”.

**262 Subsection 11B(2)**

Omit “person”, substitute “group entity”.

**263 Paragraph 11B(4)(a)**

Omit “persons is a foreign person”, substitute “group entities is a foreign corporation”.

**264 Paragraph 11B(4)(b)**

Omit “persons is not a foreign person”, substitute “group entities is not a foreign corporation”.

**265 Subsection 11B(4)**

Omit “foreign person cannot”, substitute “foreign corporation cannot”.

**266 Paragraph 11B(5)(b)**

Omit “persons”, substitute “group entities”.

**267 Subsection 11B(7)**

Repeal the subsection.

**268 Subsection 11B(8)**

Omit “eligible financial year” (wherever occurring), substitute “designated financial year”.

**269 Subsection 11B(10)**

Omit “person” (wherever occurring), substitute “group entity”.

**270 Paragraph 11B(15)(b)**

Omit “and”.

**271 Paragraph 11B(15)(c)**

Repeal the paragraph.

**272 Subsection 11B(15)**

Omit “person”, substitute “group entity”.

**273 Subsection 11B(16)**

Repeal the subsection.

**274 Paragraph 11B(17)(b)**

Omit “and”.

**275 Paragraph 11B(17)(c)**

Repeal the paragraph.

**276 Subsection 11B(17)**

Omit “persons”, substitute “group entities”.

**277 Subsections 11B(18) and (19)**

Repeal the subsections.

**278 Subsection 11B(21)**

Repeal the subsection, substitute:

*Exceptions*

- (21) A group entity 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 this Act.

**279 Subsection 11B(22)**

Omit “person”, substitute “group entity”.

**280 Subsection 11B(22)**

Omit “or 55A”.

**281 Section 11C**

Repeal the section.

**282 Paragraph 11D(1)(c)**

Repeal the paragraph.

**283 Paragraphs 11D(1)(e) and (f)**

Repeal the paragraphs, substitute:

- (e) at any time during the preceding 5 years, the person has breached a civil penalty provision of this Act; 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 this Act; or

**284 Paragraphs 11D(1)(i) and (j)**

Repeal the paragraphs, substitute:

- (i) the person has been convicted of an offence against this Act;  
or
- (j) if the person is a body corporate—an executive officer of the body corporate has been convicted of an offence against this Act.

**285 Subdivision A of Division 1 of Part 2 (heading)**

Repeal the heading.

**286 Subsections 13(2) and (3)**

Omit “member of a controlling corporation’s group”, substitute “group entity”.

**287 Subsection 13(4)**

Repeal the subsection.

**288 Subdivision B of Division 1 of Part 2**

Repeal the Subdivision.

**289 Division 4 of Part 2**

Repeal the Division.

**290 Paragraph 18B(3)(b)**

Repeal the paragraph.

**291 Subsection 19(1) (note 4)**

Repeal the note.

**292 Subsection 19(4)**

Repeal the subsection.

**293 Paragraphs 22(1)(a) and (b)**

Omit “(other than Part 3A or 3D)”.

**294 Paragraphs 22(2)(a) and (b)**

Omit “(other than Part 3A or 3D)”.

**295 Parts 3A and 3D**

Repeal the Parts.

**296 Paragraph 22X(1)(a)**

Repeal the paragraph, substitute:

- (a) a facility is under the operational control of a member (the *responsible member*) of a controlling corporation’s group during the whole or a part of a financial year; and

**297 Subsection 24(1AA)**

Repeal the subsection.

**298 Subsection 24(1AD)**

Omit “22E or”.

**299 Paragraph 24(1AE)(a)**

Omit “22E(2)(b) or”.

**300 Subsection 24(1H)**

Omit “22E or”.

**301 Subsection 24(1J)**

Omit “or financial control liability transfer certificate”.

**302 Subsection 24(8)**

Omit “22E or”.

**303 Subsection 25(1)**

Omit “22G, a person required to provide information under section 20, or a person required to provide a report under section 22A, 22AA, 22E or 22X”, substitute “22G or 22X, or a person required to provide information under section 20,”.

**304 Subsection 30(2A)**

Omit “11C, 15A, 15AA, 22A, 22AA, 22E, 22X, 74AA”, substitute “22X”.

**305 Section 54A**

Repeal the section.

**306 Section 55A**

Repeal the section.

**307 Paragraphs 56(aab), (aa), (ga) and (gb)**

Repeal the paragraphs.

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**308 Paragraph 56(j)**

Omit “75A;”, substitute “75A.”

**309 Paragraphs 56(k) and (l)**

Repeal the paragraphs.

**310 Section 74AA**

Repeal the section.

**311 Subsection 74B(1)**

Repeal the subsection, substitute:

- (1) For the purposes of this section, a person is a *relevant person* if:
  - (a) the person is the responsible member mentioned in subsection 22X(1); and
  - (b) the person is not a registered corporation; and
  - (c) the Regulator has reasonable grounds to suspect that the person has contravened, is contravening, or is proposing to contravene, this Act or the regulations.

**312 Subsection 74C(1)**

Repeal the subsection, substitute:

- (1) For the purposes of this section, a person is a *relevant person* if the person:
  - (a) is the responsible member mentioned in subsection 22X(1); and
  - (b) is not a registered corporation.

***Ozone Protection and Synthetic Greenhouse Gas  
Management Act 1989***

**313 Paragraphs 65C(1)(aa), (ab) and (ac)**

Omit “equal to the prescribed rate component of an amount of levy”.

**314 Subsections 65C(4), (5) and (6)**

Repeal the subsections.

**315 Sections 69AA to 69AD**

Repeal the sections.

***Petroleum Resource Rent Tax Assessment Act 1987***

**316 Subparagraph 28(1)(b)(iii)**

Omit “expenditure;”, substitute “expenditure.”.

**317 Paragraph 28(1)(c)**

Repeal the paragraph.

**318 Paragraph 44(1)(ia)**

Repeal the paragraph.

***Taxation Administration Act 1953***

**319 Subsection 355-65(7) in Schedule 1 (table item 3)**

Repeal the item.

## **Part 3—Application and transitional provisions**

### **Division 1—Preliminary**

#### **320 Objects**

- (1) The main objects of this Part are:
- (a) to provide for the winding-up of the carbon tax scheme; and
  - (b) to ensure that carbon tax liabilities relating to:
    - (i) the financial year beginning on 1 July 2012; or
    - (ii) the financial year beginning on 1 July 2013;can be administered, collected and recovered after the start of 1 July 2014; and
  - (c) to ensure that liable entities can take steps, after the start of 1 July 2014, to avoid being liable to pay unit shortfall charge in relation to the financial year beginning on 1 July 2013; and
  - (d) to ensure that, after the start of 1 July 2014, the Regulator can issue carbon units that are required for the financial year beginning on 1 July 2013; and
  - (e) to continue, after the start of 1 July 2014, the carbon tax related rights and obligations of liable entities, so far as those rights and obligations relate to:
    - (i) the financial year beginning on 1 July 2012; or
    - (ii) the financial year beginning on 1 July 2013.
- (2) The other objects of this Part are:
- (a) to ensure the validity of any carbon units issued as the result of an auction conducted before 1 July 2014; and
  - (b) to cancel any carbon units that are not required for the financial year beginning on 1 July 2013; and
  - (c) to ensure that, while carbon units remain in existence, the units remain subject to other Commonwealth laws.

#### **321 Definitions**

In this Part:

*designated carbon unit day* has the meaning given by item 322.

*Registry* has the same meaning as in the *Australian National Registry of Emissions Units Act 2011*.

**Registry account** has the same meaning as in the *Australian National Registry of Emissions Units Act 2011*.

**Regulator** means the Clean Energy Regulator.

### **322 Designated carbon unit day**

- (1) For the purposes of this Part, **designated carbon unit day** means:
  - (a) 9 February 2015; or
  - (b) if a later day is specified in an instrument under subitem (2)—that later day.
- (2) The Regulator may, by legislative instrument, specify a day for the purposes of paragraph (1)(b).
- (3) The Regulator must not make an instrument under subitem (2) unless the Regulator has made a determination under subsection 142(3) of the *Clean Energy Act 2011* that relates to 2 February 2015.

Note: Subsection 142(3) of the *Clean Energy Act 2011* enables the Regulator to extend the 2 February 2015 surrender deadline. See also item 345A (deadlines of 1 February and 15 June).

## Division 2—Provisions relating to the Clean Energy Act 2011 and associated charge Acts

### 323 Winding-up of the carbon tax scheme—recovery of liabilities attributable to pre-1 July 2014 emissions etc.

- (1) Despite the repeal of the *Clean Energy Act 2011* by this Schedule, that Act continues in force, subject to:
- (a) this Part; and
  - (b) the modifications set out in the following table;
- as if that repeal had not happened.

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#### Modifications of the *Clean Energy Act 2011*

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Item	Provision	Modification
1	section 4	Omit the section.
2	section 5 (definitions of <i>average carbon unit auction price</i> , <i>benchmark average auction charge</i> , <i>carbon pollution cap</i> , <i>carbon pollution cap number</i> , <i>designated limit</i> , and <i>designated limit percentage</i> )	Omit the definitions.
3	section 5 (definition of <i>eligible financial year</i> )	Omit the definition, substitute: <i>eligible financial year</i> means: (a) the financial year beginning on 1 July 2012; or (b) the financial year beginning on 1 July 2013.
4	section 5 (definition of <i>fixed charge year</i> )	Omit the definition, substitute: <i>fixed charge year</i> means: (a) the financial year beginning on 1 July 2012; or (b) the financial year beginning on 1 July 2013.
5	section 5 (definitions of <i>flexible charge year</i> and <i>per-tonne carbon price</i> )	Omit the definitions.

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**Schedule 1** Repeal of the carbon tax  
**Part 3** Application and transitional provisions

<b>Modifications of the <i>Clean Energy Act 2011</i></b>		
<b>Item</b>	<b>Provision</b>	<b>Modification</b>
	<i>equivalent</i> )	
6	section 5 (definition of <i>unit shortfall</i> )	Omit “128, 129 or 133”, substitute “128 or 129”.
7	section 5 (definition of <i>vintage year</i> )	Omit “eligible”.
8	Part 2	Omit the Part.
9	subsections 26(2), 27(2) and 28(2)	Omit all the words after “is taken to be”, substitute “zero”.
10	Subdivision A of Division 4 of Part 3	The Regulator must not issue an OTN under the Subdivision on or after 1 July 2014.
11	sections 42 and 43	Omit the sections.
12	section 43A	The section ceases to have effect at the end of 30 June 2015.
13	subsection 45(3)	The subsection ceases to have effect at the end of 30 June 2015.
14	subsections 45(4) to (13)	The subsections cease to have effect at the start of 1 September 2014.
15	subsection 46(1)	The subsection has effect, on and after 1 September 2014, as if the words “(as it stood at a particular time before the start of 1 September 2014)” were inserted after “OTN Register”.
16	section 47	The section ceases to have effect at the start of 1 August 2014.
17	section 64B	Omit the section.
18	paragraph 64F(1)(b)	Omit the paragraph.
19	subsection 66(4)	The subsection ceases to have effect at the start of 1 August 2014.
20	section 70	The Regulator must not make a declaration under the section on or after 1 July 2014.
21	section 71A	Omit the section.
22	section 72	The Regulator must not give a notice under the section on or after 1 July 2014.
24	section 83	The Regulator must not issue a certificate under the section on or after 1 July 2014.

<b>Modifications of the <i>Clean Energy Act 2011</i></b>		
<b>Item</b>	<b>Provision</b>	<b>Modification</b>
25	section 87	The Regulator must not issue a certificate under the section on or after 1 July 2014.
26	sections 89 and 90	Omit the sections.
27	section 93	Omit the section.
28	subsection 96(2)	Omit “eligible”.
29	section 97 (note)	Omit the note.
30	subsection 100(1) (table items 5, 6, 7, 8 and 9)	Omit the table items.
31	subsection 100(2)	Omit the subsection.
32	subsection 100(3) (heading)	Omit “1, 3 and 5”, substitute “1 and 3”.
33	subsection 100(3)	Omit “1, 3 or 5”, substitute “1 or 3”.
34	subsection 100(4) (heading)	Omit “2, 4, 6, 7, 8 and 9”, substitute “2 and 4”.
35	subsection 100(4)	Omit “2, 4, 6, 7, 8 or 9”, substitute “2 or 4”.
36	subsections 100(9), (14) and (15)	Omit the subsections.
37	sections 101 and 102	Omit the sections.
38	sections 108 and 109	Omit the sections.
39	section 114	Omit the section.
40	Division 1 of Part 6	Omit the Division.
41	subsection 122(1)	Omit “during an eligible financial year”.
42	subsections 122(3), (4), (5), (9) and (11)	Omit the subsections.
43	sections 123 and 123A	Omit the sections.
44	paragraph 128(7)(d)	Before “this Division”, insert “if the eligible financial year began on 1 July 2012—”.
45	Subdivision B of Division 3 of Part 6	Omit the Subdivision.
46	subsection 134(3)	Omit the subsection.
47	subsection 134A(3) (paragraph (b) of the definition of <i>applicable amount for the financial</i>	Omit the paragraph.

**Schedule 1** Repeal of the carbon tax  
**Part 3** Application and transitional provisions

<b>Modifications of the <i>Clean Energy Act 2011</i></b>		
<b>Item</b>	<b>Provision</b>	<b>Modification</b>
	<i>year</i> )	
48	paragraphs 142(3)(c), (e) and (f)	Omit the paragraphs.
48A	section 144	Omit the section.
49	paragraph 145(5)(b)	Omit the paragraph.
50	paragraph 145(5)(c)	Omit the paragraph, substitute: (c) the principle that changes should not have a negative effect on recipients of assistance under the Jobs and Competitiveness Program;
51	Division 5 of Part 7	Omit the Division.
52	section 160	Omit the section.
53	paragraphs 161(2)(b) and (c)	Omit the paragraphs.
54	subsection 161(3)	Omit the subsection.
55	subsection 161(4)	Omit “or (3)”.
56	subsection 161(5)	Omit “a later”, substitute “an”.
57	subsections 161(6), (7), (8) and (9)	Omit “or (3)”.
58	Part 9	The Part ceases to have effect at the end of 30 June 2015.
59	Division 3 of Part 9	Omit the Division.
60	sections 196 and 196A	Omit the sections.
61	subsections 197(3) to (6)	Omit the subsections.
62	section 199	After “each quarter”, insert “that ends on or before 31 March 2015”.
63	section 200	Omit the section.
64	subsection 212(2) (subparagraph (d)(ii) of the definition of <i>prescribed amount for the financial year in which the compliance deadline occurs</i> )	Omit the subparagraph.
65	subsection 212(3)	Omit the subparagraph.

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**Modifications of the *Clean Energy Act 2011***

<b>Item</b>	<b>Provision</b>	<b>Modification</b>
	(subparagraph (d)(ii) of the definition of <i>prescribed amount for the financial year in which the compliance deadline occurs</i> )	
66	Part 12	Omit the Part.
67	paragraphs 262(1)(ma), (r), (u) and (v) and 263(2)(g), (i) and (j)	Omit the paragraphs.
68	section 281 (table items 3, 4, 5, 7, 8, 11, 12, 13 and 16)	Omit the table items.
69	Part 22	Omit the Part.
70	subparagraph 295(d)(iii)	Omit the subparagraph.
71	subparagraph 295(e)(ii)	Omit the subparagraph.
72	subparagraph 295(i)(iii)	Omit the subparagraph.
73	sections 303A and 303B	Omit the sections.

*Carbon units with a vintage year beginning on or after 1 July 2014*

- (2) The modification made by item 3 of the table in subitem (1) does not apply in relation to the issue of a carbon unit with a vintage year beginning on or after 1 July 2014, if the carbon unit was issued as a result of an auction conducted before 1 July 2014.

*Review of decisions*

- (3) The modification of section 281 of the *Clean Energy Act 2011* made by the table in subitem (1) does not apply to a decision made before 1 July 2014.

*Civil penalty orders*

- (4) The modification of section 262 of the *Clean Energy Act 2011* made by the table in subitem (1) does not apply to a contravention that occurred before 1 July 2014.

### 324 Application—repeal of Charge Acts

#### *Charge for issue of carbon units for a fixed charge*

- (1) The repeal by this Schedule of the following Acts, so far as they relate to the issue of carbon units in accordance with section 100 of the *Clean Energy Act 2011*:
- (a) the *Clean Energy (Charges—Customs) Act 2011*;
  - (b) the *Clean Energy (Charges—Excise) Act 2011*;
  - (c) the *Clean Energy (Unit Issue Charge—Fixed Charge) Act 2011*;

does not apply to the issue of carbon units with a vintage year beginning on 1 July 2012 or 1 July 2013.

#### *Charge for issue of carbon units as a result of an auction*

- (2) The repeal by this Schedule of the following Acts, so far as they relate to the issue of carbon units as a result of an auction:
- (a) the *Clean Energy (Charges—Customs) Act 2011*;
  - (b) the *Clean Energy (Charges—Excise) Act 2011*;
  - (c) the *Clean Energy (Unit Issue Charge—Auctions) Act 2011*;

does not apply to the issue of carbon units if the carbon units were issued as a result of an auction conducted before 1 July 2014.

#### *Charge on unit shortfall*

- (3) The repeal by this Schedule of the following Acts, so far as they relate to a unit shortfall for a financial year:
- (a) the *Clean Energy (Charges—Customs) Act 2011*;
  - (b) the *Clean Energy (Charges—Excise) Act 2011*;
  - (c) the *Clean Energy (Unit Shortfall Charge—General) Act 2011*;

does not apply to:

- (d) a unit shortfall for the financial year beginning on 1 July 2012; or
- (e) a unit shortfall for the financial year beginning on 1 July 2013.

### **325 Issue of carbon units**

The Regulator must not issue any carbon units after the start of the designated carbon unit day.

### **327 Cancellation of carbon units—designated carbon unit day**

#### *Scope*

- (1) This item applies if there was an entry for a carbon unit in a person's Registry account at the start of the designated carbon unit day.

#### *Cancellation of unit*

- (2) The Regulator must cancel the unit.
- (3) The Regulator must remove the entry for the unit from the person's Registry account.
- (4) The Registry must set out a record of each cancellation under subitem (2).

### **328 Surrender of eligible Australian carbon credit units**

- (1) If:

- (a) subsection 128(7) of the *Clean Energy Act 2011* applies to a person because the person surrendered, in relation to the financial year beginning on 1 July 2013, eligible Australian carbon credit units; and
- (b) under paragraph (c) of that subsection, Division 3 of Part 6 of that Act has effect as if the person had not surrendered, during the period mentioned in paragraph (a) of that subsection, a particular number of eligible Australian carbon credit units; and
- (c) the person has a Registry account;

then:

- (d) the Regulator must, by written notice given to the person, determine that specified eligible Australian carbon credit units that were surrendered by the person:
- (i) during that period; and
- (ii) in relation to the financial year beginning on 1 July 2013;

- are *restored units* for the purposes of this item; and
- (e) a restored unit is taken never to have been surrendered or cancelled; and
  - (f) the Regulator must make an entry for a restored unit in a Registry account kept by the person.
- (2) The number of units specified in the determination must equal the number mentioned in paragraph (1)(b).
  - (3) Subitem (1) does not affect the validity of the removal of the entry of a restored unit from a Registry account in accordance with paragraph 122(12)(b) of the *Clean Energy Act 2011*.
  - (4) A determination under paragraph (1)(d) is not a legislative instrument.

### **329 Opt-in Scheme**

- (1) A reference in the Opt-in Scheme to a financial year does not include a reference to a financial year beginning on or after 1 July 2014.
- (2) Regulations 3.48 and 3.50 of the *Clean Energy Regulations 2011* cease to have effect at the end of 30 June 2014.

### **Division 3—Provisions relating to other Acts**

#### **330 Transitional—A New Tax System (Goods and Services Tax) Act 1999**

Despite the amendments of the *A New Tax System (Goods and Services Tax) Act 1999* made by this Schedule, that Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

#### **331 Transitional—Anti-Money Laundering and Counter-Terrorism Financing Act 2006**

Despite the amendments of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* made by this Schedule, that Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

#### **332 Transitional—Australian National Registry of Emissions Units Act 2011**

Despite the amendments of the *Australian National Registry of Emissions Units Act 2011* made by this Schedule, that Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

#### **333 Transitional—Clean Energy Regulator Act 2011**

- (1) Despite the amendment of the definition of *climate change law* in section 4 of the *Clean Energy Regulator Act 2011* made by this Schedule, that definition continues to apply, in relation to paragraph 12(a) and subsection 43(3) and section 44 of that Act, as if that amendment had not been made.
- (2) Each of the following:
  - (a) this Act;
  - (b) a legislative instrument under this Act;
  - (c) the *True-up Shortfall Levy (General) (Carbon Tax Repeal) Act 2014*;
  - (d) the *True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Act 2014*;

is taken to be a climate change law for the purposes of paragraph 12(a) and subsection 43(3) and section 44 of the *Clean Energy Regulator Act 2011*.

**334 Application—amendments of the *Fuel Tax Act 2006***

The amendments of the *Fuel Tax Act 2006* made by this Schedule apply to taxable fuel acquired, manufactured or imported on or after 1 July 2014.

**335 Application—amendment of the *Fuel Tax (Consequential and Transitional Provisions) Act 2006***

The amendment of the *Fuel Tax (Consequential and Transitional Provisions) Act 2006* made by this Act applies to taxable fuel acquired, manufactured or imported on or after 1 July 2014.

**336 Application—amendments of the *Income Tax Assessment Act 1997***

- (1) The repeal of section 26-18 of the *Income Tax Assessment Act 1997* by this Schedule does not apply to unit shortfall charge imposed on:
  - (a) a unit shortfall for the financial year beginning on 1 July 2012; or
  - (b) a unit shortfall for the financial year beginning on 1 July 2013.
- (2) Despite the amendments of the *Income Tax Assessment Act 1997* made by this Schedule (other than the amendment of section 12-5 or the repeal of section 26-18), that Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

**337 Transitional—*National Greenhouse and Energy Reporting Act 2007***

*General*

- (1) Despite the amendments of the *National Greenhouse and Energy Reporting Act 2007* made by this Schedule, that Act continues to apply, in relation to the following matters:
  - (a) determining the meaning of the following expressions, when used in the *Clean Energy Act 2011*:

- (i) carbon dioxide equivalence;
- (ii) facility;
- (iii) greenhouse gas;
- (iv) group;
- (v) member, when used in relation to a group;
- (vi) non-group entity;
- (vii) operational control;
- (viii) potential greenhouse gas emissions;
- (ix) provisional emissions number;
- (x) scope 1 emission of greenhouse gas;
- (b) the matters mentioned in subsections 10(3) to (9) of the *National Greenhouse and Energy Reporting Act 2007*, so far as those matters are relevant to the *Clean Energy Act 2011*;
- (c) reports under section 22A, 22AA or 22E of the *National Greenhouse and Energy Reporting Act 2007*;
- (d) records under section 22B, 22C or 22F of the *National Greenhouse and Energy Reporting Act 2007*;
- (e) applications under section 15A or 15AA of the *National Greenhouse and Energy Reporting Act 2007*;
- (f) the registration of persons under section 18A of the *National Greenhouse and Energy Reporting Act 2007*;
- (g) the publication of information under section 24 of the *National Greenhouse and Energy Reporting Act 2007*, so far as the information relates to:
  - (i) the financial year beginning on 1 July 2012; or
  - (ii) the financial year beginning on 1 July 2013;
- (h) audits under section 74AA of the *National Greenhouse and Energy Reporting Act 2007*;
- (i) audits under section 74B or 74C of the *National Greenhouse and Energy Reporting Act 2007*, so far as the audits relate to a person's compliance with obligations under that Act (or regulations under that Act) in relation to:
  - (i) the financial year beginning on 1 July 2012; or
  - (ii) the financial year beginning on 1 July 2013;

as if:

- (j) the *National Greenhouse and Energy Reporting Act 2007* were modified as set out in the following table; and
- (k) those amendments had not been made; and

(l) subitem (6) had not been enacted.

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**Modifications of the *National Greenhouse and Energy Reporting Act 2007***

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<b>Item</b>	<b>Provision</b>	<b>Modification</b>
1	section 7 (definition of <i>eligible financial year</i> )	Omit the definition, substitute: <i>eligible financial year</i> means: (a) the financial year beginning on 1 July 2012; or (b) the financial year beginning on 1 July 2013.
2	section 7 (definition of <i>fixed charge year</i> )	Omit the definition, substitute: <i>fixed charge year</i> means: (a) the financial year beginning on 1 July 2012; or (b) the financial year beginning on 1 July 2013.

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*Thresholds*

- (2) The amendments of the *National Greenhouse and Energy Reporting Act 2007* made by this Schedule, so far as they are relevant to determining whether a controlling corporation's group meets a threshold under section 13 of that Act for a financial year, apply in relation to a threshold for:
- (a) the financial year beginning on 1 July 2014; or
  - (b) a later financial year.

*Reports*

- (3) The amendments of the *National Greenhouse and Energy Reporting Act 2007* made by this Schedule, so far as they relate to reports under section 19 of that Act, apply in relation to reports for:
- (a) the financial year beginning on 1 July 2014; or
  - (b) a later financial year.
- (4) The amendments of the *National Greenhouse and Energy Reporting Act 2007* made by this Schedule, so far as they relate to reports under section 22G or 22X of that Act, apply in relation to reports for:
- (a) the financial year beginning on 1 July 2014; or
-

- (b) a later financial year.

*Unsatisfactory compliance record*

- (5) Despite the amendments of section 11D of the *National Greenhouse and Energy Reporting Act 2007* made by this Schedule, that Act continues to apply, in relation to:
- (a) unpaid unit shortfall charge; and
  - (b) a breach of a civil penalty provision of:
    - (ii) the *Clean Energy Act 2011*; or
    - (iii) a determination under section 113 of the *Clean Energy Act 2011*; and
  - (c) a conviction of an offence against the *Clean Energy Act 2011*;

as if those amendments had not been made.

*Regulations—carbon dioxide equivalence*

- (6) If, immediately before the commencement of this item, regulations were in force for the purposes of paragraph (a) of the definition of **carbon dioxide equivalence** in section 7 of the *National Greenhouse and Energy Reporting Act 2007*, the regulations have effect, after that commencement, as if they had been made for the purposes of the definition of **carbon dioxide equivalence** in section 7 of that Act as amended by this Schedule.

*Deregistration—section 18A registrations*

- (7) If:
- (a) a person was registered under the *National Greenhouse and Energy Reporting Act 2007* because of the operation of section 18A of that Act; and
  - (b) the person is registered under that Act as at the start of 1 July 2014;

the Regulator must remove the person's name from the Register.

**338 Transitional—Ozone Protection and Synthetic Greenhouse Gas Management Act 1989**

*Amounts to be credited to the Ozone Protection and SGG Account*

- (1) Despite the amendments of section 65C of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* made by this Schedule, that section continues to apply, in relation to levy for a quarter ending before 1 July 2014, as if those amendments had not been made.

*Remission or refund of levy for a quarter ending before 1 July 2014*

- (2) Despite the repeal of sections 69AA to 69AD of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* by this Schedule, those sections continue to apply, in relation to levy for a quarter ending before 1 July 2014, as if:
- (a) that Act provided that an application under section 69AA, 69AB or 69AC of that Act must be made before 1 January 2016; and
  - (b) that repeal had not happened.

**339 Transitional—Petroleum Resource Rent Tax Assessment Act 1987**

- (1) Despite the amendments of section 28 of the *Petroleum Resource Rent Tax Assessment Act 1987* made by this Schedule, that Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.
- (2) The repeal of paragraph 44(1)(ia) of the *Petroleum Resource Rent Tax Assessment Act 1987* by this Schedule does not apply to unit shortfall charge imposed on:
- (a) a unit shortfall for the financial year beginning on 1 July 2012; or
  - (b) a unit shortfall for the financial year beginning on 1 July 2013.

**340 Transitional—*Taxation Administration Act 1953***

Despite the amendment of the *Taxation Administration Act 1953* made by this Schedule, that Act continues to apply, in relation to records or disclosures made for the purpose of:

- (a) the verification from the Regulator of information provided to the Commissioner under or for the purposes of the *Fuel Tax Act 2006* so far as that Act applies to taxable fuel acquired, manufactured or imported before 1 July 2014; or
- (b) administering the *Clean Energy Act 2011* or the associated provisions (within the meaning of that Act);

as if that amendment had not been made.

## **Division 4—Miscellaneous**

### **342 Transitional rules**

The Minister may, by legislative instrument, make rules in relation to transitional matters arising out of the amendments and repeals made by this Schedule.

## **Division 5—Transitional provisions commencing on Royal Assent**

### **343 Auctions of carbon units**

- (1) The Regulator must not conduct an auction of carbon units after the earlier of the following days:
  - (a) the day this item commences;
  - (b) 30 June 2014.
- (2) Any determination under subsection 113(1) of the *Clean Energy Act 2011* ceases to have effect at the end of the day (the **relevant day**) that is the earlier of the following days:
  - (a) the day this item commences;
  - (b) 30 June 2014;except to the extent to which the determination relates to auctions conducted on or before the relevant day.

### **343A Carbon units issued as a result of an auction conducted by the Regulator**

- (1) If:
  - (a) a carbon unit was issued as a result of an auction conducted by the Regulator; and
  - (b) there is an entry for the unit in a person's Registry account as at 3.00 pm (by legal time in the Australian Capital Territory) on the fifth business day after the day this item commences;the Regulator must:
  - (c) cancel the unit; and
  - (d) remove the entry for the unit from the person's Registry account; and
  - (e) on behalf of the Commonwealth, pay to the person an amount equal to the charge paid for the issue of the unit.
- (2) The Registry must set out a record of each cancellation under paragraph (1)(c).
- (3) The Consolidated Revenue Fund is appropriated for the purposes of making payments under this item.

(4) In this item:

**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.

### **344 Carbon pollution cap regulations**

If this item commences on a day (the **commencement day**) before 31 May 2014, the *Clean Energy Act 2011* has effect during the period:

- (a) beginning at the start of the commencement day; and
- (b) ending at the end of 30 June 2014;

as if section 16 of that Act had not been enacted.

### **345 Fixed charge regulations**

If this item commences on a day (the **commencement day**) before 31 May 2014, the *Clean Energy Act 2011* has effect during the period:

- (a) beginning at the start of the commencement day; and
- (b) ending at the end of 30 June 2014;

as if subsections 100(14) and (15) of that Act had not been enacted.

### **345A Deadlines of 1 February and 15 June**

The *Clean Energy Act 2011* has, and is taken always to have had, effect as if the following definitions were inserted in section 5 of that Act:

**15 June** means:

- (a) if the 15 June concerned is a business day—that 15 June; or
- (b) if the 15 June concerned is not a business day—the first business day after that 15 June.

**1 February** means:

- (a) if the 1 February concerned is a business day—that 1 February; or
- (b) if the 1 February concerned is not a business day—the first business day after that 1 February.

### **345B Surplus and estimation error adjustment number**

The *Clean Energy Act 2011* has, and is taken always to have had, effect as if the formula in subsection 131(3) of that Act were omitted and the following formula substituted:

Total estimation error numbers + Provisional surplus surrender number

### **345C Definitions**

If this Division commences before 1 July 2014, this Division has effect as if item 321 (definitions) had commenced at the same time as this Division commences.

### **345D Compensation for acquisition of property**

- (1) If the operation of this Schedule would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

## Part 4—Jobs and Competitiveness Program

### Division 1—Preliminary

#### 346 Definitions

(1) In this Part:

*levy* means levy imposed by whichever of the following is applicable:

- (a) the *True-up Shortfall Levy (General) (Carbon Tax Repeal) Act 2014*;
- (b) the *True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Act 2014*.

*over-allocation of free carbon units* has the meaning given by item 354.

*rules* means rules made under item 359.

*true-up shortfall* has the meaning given by item 355.

*under-allocation of free carbon units* has the meaning given by item 352.

(2) An expression used in this Part and in the *Clean Energy Act 2011* has the same meaning in this Part as in that Act.

#### 347 Crown to be bound

This Part binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island. However, it does not bind the Crown in right of the Commonwealth.

#### 348 Extension to external Territories

This Part extends to every external Territory.

#### 349 Extension to exclusive economic zone and continental shelf

This Part extends to Australia's exclusive economic zone and continental shelf.

#### 350 Extension to Joint Petroleum Development Area

This Part extends to the Joint Petroleum Development Area.

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## **Division 2—Reporting requirements**

### **351 Reporting requirements**

#### *Report*

- (1) The rules may make provision for and in relation to requiring a designated person to give a written report to the Regulator for the purposes of this Part.

#### *Designated person*

- (2) For the purposes of this item, a person is a *designated person* if free carbon units with a vintage year beginning on 1 July 2013 are or were issued to the person in accordance with the Jobs and Competitiveness Program.

#### *Compliance with reporting requirements*

- (3) Subsection 151(1) of the *Clean Energy Act 2011* has effect as if a requirement under rules made for the purposes of subitem (1) were a requirement under the Jobs and Competitiveness Program.

### Division 3—Issue of additional free carbon units

#### 352 Under-allocation of free carbon units

For the purposes of this Part, if:

- (a) free carbon units with a vintage year beginning on 1 July 2013 are or were issued to a person in accordance with the Jobs and Competitiveness Program; and
- (b) the conditions specified in the rules are satisfied;

then:

- (c) the person has an *under-allocation of free carbon units*; and
- (d) the number of units in that under-allocation is equal to the number ascertained in accordance with the rules.

#### 353 Issue of additional free carbon units

(1) If:

- (a) a person has an under-allocation of free carbon units; and
- (b) the person has a Registry account;

the Regulator must:

- (c) issue to the person, under section 94 of the *Clean Energy Act 2011*, a number of free carbon units equal to the number of units in the under-allocation; and
- (d) do so within the period ascertained in accordance with the rules.

(2) Free carbon units issued in accordance with subitem (1):

- (a) are to have a vintage year beginning on 1 July 2013; and
- (b) are taken (except for the purposes of this Part) to have been issued in accordance with the Jobs and Competitiveness Program.

## Division 4—True-up shortfalls

### 354 Over-allocation of free carbon units

For the purposes of this Part, if:

- (a) free carbon units with a vintage year beginning on 1 July 2013 are or were issued to a person in accordance with the Jobs and Competitiveness Program; and
- (b) the conditions specified in the rules are satisfied;

then:

- (c) the person has an *over-allocation of free carbon units*; and
- (d) the number of units in that over-allocation is equal to the number ascertained in accordance with the rules.

### 355 True-up shortfall

(1) For the purposes of this Part, if:

- (a) a person has an over-allocation of free carbon units; and
- (b) the number worked out using the formula in subitem (2) exceeds zero;

then:

- (c) the person has a *true-up shortfall*; and
- (d) the number of units in that shortfall is equal to the number worked out using that formula.

Note: Levy is imposed on a true-up shortfall by whichever of the following is applicable:

- (a) the *True-up Shortfall Levy (General) (Carbon Tax Repeal) Act 2014*;
- (b) the *True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Act 2014*.

(2) The formula is as follows:

Number of units in  
the over-allocation — Number of units  
relinquished

where:

*number of units relinquished* means the number of carbon units with a vintage year beginning on 1 July 2013 that were relinquished by the person (other than as mentioned in paragraph 210(2)(b) or (c) of the *Clean Energy Act 2011*) during the period ascertained in accordance with the rules.

## **Division 5—Collection of levy**

### **356 When levy is due and payable**

Levy imposed on a true-up shortfall of a person is due and payable at the end of the period ascertained in accordance with the rules.

### **357 Late payment penalty**

- (1) If an amount of levy payable by a person remains unpaid after the time when it became due for payment, the person is liable to pay, by way of penalty, an amount calculated at the rate of:
  - (a) 20% per annum; or
  - (b) if a lower percentage is specified in the rules—that lower percentage per annum;on the amount unpaid, computed from that time.

#### *Power to remit*

- (2) The Regulator may remit the whole or a part of an amount payable under subitem (1).
- (3) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Regulator under subitem (2) to refuse to remit the whole or a part of an amount.

### **358 Recovery of levy and late payment penalty**

#### *Scope*

- (1) This item applies to the following amounts:
  - (a) an amount of levy;
  - (b) an amount payable under item 357.

#### *Recovery*

- (2) The amount:
  - (a) is a debt due to the Commonwealth; and
  - (b) may be recovered by the Regulator, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

## Division 6—Miscellaneous

### 358A Associated provisions

A reference in the *Clean Energy Act 2011* (other than section 307) to the associated provisions includes a reference to:

- (a) the provisions of this Part; and
- (b) the provisions of the rules; and
- (c) the provisions of the *True-up Shortfall Levy (General) (Carbon Tax Repeal) Act 2014*; and
- (d) the provisions of the *True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Act 2014*.

### 359 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
  - (a) required or permitted by this Part to be prescribed by the rules; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) Conditions specified in rules made for the purposes of paragraph 352(b) or 354(b) may relate to events or things that occurred, or circumstances that existed, before the rules were registered under the *Legislative Instruments Act 2003*.

## **Schedule 2—Carbon tax price reduction obligation**

### *Competition and Consumer Act 2010*

#### **1 After paragraph 2B(1)(a)**

Insert:

(aa) Part V;

#### **2 After subparagraph 6(2)(b)(i)**

Insert:

(ia) Part V (other than Division 5);

#### **3 After Part IVB**

Insert:

## **Part V—Carbon tax price reduction obligation**

### **Division 1—Preliminary**

#### **60 Simplified outline of this Part**

- An entity must not engage in price exploitation in relation to the carbon tax repeal.
- The Commission may monitor prices in relation to the carbon tax repeal and the carbon tax scheme.
- An entity must not make false or misleading representations about the effect of the carbon tax repeal, or the carbon tax scheme, on the price for the supply of goods or services.
- An entity that sells electricity or natural gas, or an entity that is a bulk SGG importer and sells synthetic greenhouse gas, will be required to explain and substantiate:

- (a) how the carbon tax repeal has affected, or is affecting, the entity's regulated supply input costs; and
  - (b) how reductions in the entity's regulated supply input costs that are directly or indirectly attributable to the carbon tax repeal are reflected in the prices charged by the entity for regulated supplies of electricity, natural gas or synthetic greenhouse gas.
- An entity that sells electricity or natural gas to customers, or an entity that is a bulk SGG importer and sells synthetic greenhouse gas to customers, must:
    - (a) give a carbon tax removal substantiation statement to the Commission; and
    - (b) include in the statement the entity's estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity's cost savings that have been, are, or will be, attributable to the carbon tax repeal and that have been, are being, or will be, passed on to customers during the financial year that began on 1 July 2014; and
    - (c) provide information with the statement that substantiates such an estimate; and
    - (d) in a case where the entity sells electricity or natural gas to customers—communicate to customers a statement that identifies, on an average annual percentage price basis, or an average annual dollar price basis, the estimated cost savings to customers that are for the financial year that began on 1 July 2014.
  - Infringement notices may be issued for certain contraventions of this Part.

**60AA Objects etc.**

- (1) The main objects of this Part are:
  - (a) to deter price exploitation in relation to the carbon tax repeal at each point in the supply chain for regulated goods; and

- (b) to ensure that all cost savings attributable to the carbon tax repeal are passed through the supply chain for regulated goods.
- (2) The intention of the Parliament in enacting this Part is to ensure that all cost savings attributable to the carbon tax repeal are passed on to consumers of regulated goods through lower prices.

## 60A Definitions

In this Part:

***applicable compliance period***, for a carbon tax removal substantiation notice, has the meaning given by subsection 60FC(2).

***bulk SGG importer*** means an entity that:

- (a) holds a controlled substances licence under the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* that allows the entity to import synthetic greenhouse gases; and
- (b) supplies synthetic greenhouse gas to SGG customers.

***carbon charge component*** of levy means so much of the amount of the levy as is calculated by multiplying the number of tonnes of carbon dioxide equivalence by a per unit charge applicable under subsection 100(1) of the *Clean Energy Act 2011* for the issue of a carbon unit.

***carbon tax removal substantiation notice*** has the meaning given by subsection 60FA(3).

***carbon tax removal substantiation statement*** has the meaning given by subsection 60FD(3).

***carbon tax repeal*** means:

- (a) the repeal of the following Acts by the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*:
- (i) the *Clean Energy Act 2011*;
- (ii) the *Clean Energy (Charges—Customs) Act 2011*;
- (iii) the *Clean Energy (Charges—Excise) Act 2011*;
- (iv) the *Clean Energy (Unit Issue Charge—Auctions) Act 2011*;

- (v) the *Clean Energy (Unit Issue Charge—Fixed Charge) Act 2011*;
- (vi) the *Clean Energy (Unit Shortfall Charge—General) Act 2011*; and
- (b) the amendments of the following Acts made by the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*:
  - (i) the *Fuel Tax Act 2006*;
  - (ii) the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*; and
- (c) the amendments made by the following Acts:
  - (i) the *Customs Tariff Amendment (Carbon Tax Repeal) Act 2014*;
  - (ii) the *Excise Tariff Amendment (Carbon Tax Repeal) Act 2014*;
  - (iii) the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Carbon Tax Repeal) Act 2014*;
  - (iv) the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Carbon Tax Repeal) Act 2014*.

***carbon tax repeal transition period*** means the period:

- (a) beginning at the start of 1 July 2014; and
- (b) ending at the end of 30 June 2015.

***carbon tax scheme*** means the scheme embodied in the following:

- (a) the *Clean Energy Act 2011*, as in force at the start of 1 January 2014;
- (b) the associated provisions (within the meaning of that Act as in force at that time);
- (c) the following provisions of the *Fuel Tax Act 2006*, as in force at the start of 1 January 2014:
  - (i) Division 42A;
  - (ii) section 43-5, so far as that section relates to a carbon reduction;
  - (iii) section 43-8;
  - (iv) section 43-11;
- (d) section 3A of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*, as in force at the

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start of 1 January 2014, so far as that section relates to carbon charge component;

- (e) section 4A of the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995*, as in force at the start of 1 January 2014, so far as that section relates to carbon charge component;
- (f) section 3A of the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*, as in force at the start of 1 January 2014, so far as that section relates to carbon charge component;
- (g) sections 6FA, 6FB and 6FC of the *Excise Tariff Act 1921*, as in force at the start of 1 January 2014;
- (h) section 19A of the *Customs Tariff Act 1995*, as in force at the start of 1 January 2014.

***electricity customer*** means an entity that purchases electricity.

***electricity retailer*** means:

- (a) an entity who:
  - (i) is a retailer within the meaning of the *National Energy Retail Law* as it applies in a State or a Territory; and
  - (ii) sells electricity to electricity customers; or
- (b) an entity who is a retailer within the meaning of the *Electricity Industry Act 2000* (Vic.); or
- (c) an entity who is a retail entity within the meaning of the *Electricity Act 1994* (Qld); or
- (d) an entity who:
  - (i) holds a retail licence within the meaning of the *Electricity Industry Act 2004* (WA); or
  - (ii) holds an integrated regional licence within the meaning of the *Electricity Industry Act 2004* (WA) that authorises the entity to sell electricity; or
- (e) an entity who is an electricity entity within the meaning of the *Electricity Reform Act* (NT) and whose licence under that Act authorises the entity to sell electricity; or
- (f) any other entity who produces electricity in Australia.

***engages in price exploitation in relation to the carbon tax repeal:***  
see section 60C.

**entity** means any of the following:

- (a) a corporation (as defined by section 4);
- (b) an individual;
- (c) a body corporate;
- (d) a corporation sole;
- (e) a body politic;
- (f) a partnership;
- (g) any other unincorporated association or body of entities;
- (h) a trust;
- (i) any party or entity which can or does buy or sell electricity, natural gas or synthetic greenhouse gas.

**infringement notice** means an infringement notice issued under subsection 60L(1).

**infringement notice compliance period**: see section 60P.

**infringement notice provision** means section 60C or 60K.

**listed corporation** has the meaning given by section 9 of the *Corporations Act 2001*.

**National Energy Retail Law** means the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* (SA).

**natural gas** has the same meaning as in the National Gas (Commonwealth) Law (as defined by the *Australian Energy Market Act 2004*).

**natural gas customer** means an entity that purchases natural gas.

**natural gas retailer** means:

- (a) an entity who:
  - (i) is a retailer within the meaning of the *National Energy Retail Law* as it applies in a State or a Territory; and
  - (ii) sells natural gas to natural gas customers; or
- (b) an entity who is a gas retailer within the meaning of the *Gas Industry Act 2001* (Vic.); or
- (c) an entity who is a retailer within the meaning of the *Gas Supply Act 2003* (Qld); or

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- (d) an entity who holds a trading licence under the *Energy Coordination Act 1994* (WA); or
  - (e) an entity who holds a licence under the *Gas Act 2000* (Tas.) to sell gas by retail.

**price**, in relation to a supply, includes:

- (a) a charge of any description for the supply; and
- (b) any pecuniary or other benefit, whether direct or indirect, received or to be received by a person for or in connection with the supply.

**regulated goods**: see section 60B.

**regulated supply** means a supply that:

- (a) occurs during the carbon tax repeal transition period; and
- (b) is of regulated goods.

**regulated supply input costs** of an entity means the entity's input costs in relation to the making by the entity of regulated supplies of electricity, natural gas or synthetic greenhouse gas.

**Royal Assent day** means the day on which the Act that inserted this Part receives the Royal Assent.

**SGG customer** means an entity that purchases synthetic greenhouse gas.

**SGG equipment** has the same meaning as in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

**synthetic greenhouse gas** has the same meaning as in the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

## **60B Regulated goods**

- (1) For the purposes of this Part, **regulated goods** means:
  - (a) natural gas; or
  - (b) electricity; or
  - (c) synthetic greenhouse gas; or
  - (d) SGG equipment; or
  - (e) other goods of a kind specified in a legislative instrument under subsection (2).

- (2) The Minister may, by legislative instrument, specify one or more kinds of goods for the purposes of paragraph (1)(e).

## **Division 2—Carbon tax price reduction obligation**

### **60C Price exploitation in relation to the carbon tax repeal**

- (1) An entity must not engage in price exploitation in relation to the carbon tax repeal.
- (2) For the purposes of this Part, an entity *engages in price exploitation in relation to the carbon tax repeal* if, and only if:
- (a) it makes a regulated supply; and
  - (b) the price for the supply does not pass through all of the entity's cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal.
- (3) For the purposes of this Part, in determining whether the price for a supply made by an entity does not pass through all of the entity's cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal, have regard to the following matters:
- (a) the entity's cost savings that are directly or indirectly attributable to the carbon tax repeal;
  - (b) how the cost savings mentioned in paragraph (a) can reasonably be attributed to the different supplies that the entity makes;
  - (c) the entity's costs;
  - (d) any other relevant matter that may reasonably influence the price.

### **60CA Failure to pass on cost savings—250% penalty**

- (1) If:
- (a) either:
    - (i) an entity contravenes subsection 60C(1) in relation to a particular supply of electricity or natural gas; or
    - (ii) an entity that is a bulk SGG importer contravenes subsection 60C(1) in relation to a particular supply of synthetic greenhouse gas; and

(b) the contravention involved a failure to pass through all of the entity's cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal;

there is payable by the entity to the Commonwealth, and the entity shall pay to the Commonwealth, by way of penalty, an amount equal to 250% of those cost savings that were not passed through.

*When penalty becomes due and payable*

- (2) An amount payable by an entity under subsection (1) is due and payable on 1 July 2015.

*Late payment penalty*

- (3) If an amount payable by an entity under subsection (1) remains unpaid after the time when it became due for payment, there is payable by the entity to the Commonwealth, and the entity shall pay to the Commonwealth, by way of penalty, an amount calculated at the rate of 6% per annum on the amount unpaid, computed from that time.

*Recovery of penalties*

- (4) An amount payable by an entity under subsection (1) or (3):
- (a) is a debt due to the Commonwealth; and
  - (b) shall be recovered by the Commission, on behalf of the Commonwealth, by action in a court of competent jurisdiction, unless the cost of doing so exceeds the amount.

*Report to Parliament*

- (5) Within 13 months after the Royal Assent day, the Commission must report to Parliament in respect of penalties payable by entities.

**60D Notice to entity that is considered to have engaged in price exploitation in relation to the carbon tax repeal**

- (1) The Commission may give an entity a written notice under this section if the Commission considers that the entity has engaged in price exploitation in relation to the carbon tax repeal.
- (2) The notice must:

- (a) be expressed to be given under this section; and
  - (b) identify:
    - (i) the entity that made the supply; and
    - (ii) the kind of supply made; and
    - (iii) the circumstances in which the supply was made; and
  - (c) state that, in the Commission's opinion, the price for the supply did not pass through all of the entity's cost savings relating to the supply that were directly or indirectly attributable to the carbon tax repeal.
- (3) In any proceedings:
- (aa) under section 60CA; or
  - (a) under section 76 for a pecuniary penalty order relating to section 60C; or
  - (b) under section 80 for an injunction relating to section 60C; or
  - (c) under section 80A, 82, 86C, 86D or 87 for an order relating to section 60C;
- the notice is prima facie evidence that the price for the supply did not pass through all of the entity's cost savings relating to the supply that were directly or indirectly attributable to the carbon tax repeal.
- (4) The Commission may vary or revoke the notice on its own initiative or on application made by the entity. The Commission must give the entity written notice of the variation or revocation.
- (5) A notice under this section is not a legislative instrument.

**60E Commission may issue notice to aid prevention of price exploitation in relation to the carbon tax repeal**

- (1) The Commission may give an entity a written notice under this section if the Commission considers that doing so will aid the prevention of the entity engaging in price exploitation in relation to the carbon tax repeal.
  - (2) The notice must:
    - (a) be expressed to be given under this section; and
    - (b) be expressed to relate to any supply that the entity makes that is:
      - (i) of a kind specified in the notice; and
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- (ii) made in circumstances specified in the notice; and
  - (iii) made during the period specified in the notice (which must not be a period ending after the end of the carbon tax repeal transition period); and
  - (c) specify the maximum price that, in the Commission's opinion, may be charged for a supply to which the notice is expressed to relate.
- (3) The Commission may, on its own initiative or on application made by the entity:
- (a) vary the notice to:
    - (i) change the period specified as required by subparagraph (2)(b)(iii); or
    - (ii) change the price specified in the notice as required by paragraph (2)(c); or
  - (b) revoke the notice.
- The Commission must give the entity written notice of the variation or revocation.
- (4) The Commission may publish the notice, or particulars of any variation or revocation of the notice, in such manner as the Commission considers appropriate.
- (5) A notice under this section is not a legislative instrument.

## **60F Acquisition of property**

### *Scope*

- (1) This section applies to the following provisions of this Act:
- (a) section 60C;
  - (b) any other provision to the extent to which it relates to section 60C.

### *Effect of provision*

- (2) The provision has no effect to the extent (if any) to which its operation would result in the acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph).

## Division 2A—Carbon tax removal substantiation notices

### 60FA Carbon tax removal substantiation notices

#### *Scope*

- (1) This section applies to an entity if the entity:
  - (a) is an electricity retailer that sells electricity to electricity customers; or
  - (b) is a natural gas retailer that sells natural gas to natural gas customers; or
  - (c) is a bulk SGG importer that sells synthetic greenhouse gas to SGG customers.

#### *Carbon tax removal substantiation notice*

- (2) The Commission must, within 30 days after the Royal Assent day, by written notice given to the entity, require the entity:
    - (a) to give to the Commission, within the period specified in the notice, a written statement that explains:
      - (i) how the carbon tax repeal has affected, or is affecting, the entity's regulated supply input costs; and
      - (ii) how reductions in the entity's regulated supply input costs that are directly or indirectly attributable to the carbon tax repeal are reflected in the prices charged by the entity for regulated supplies of electricity, natural gas or synthetic greenhouse gas; and
    - (b) to do either or both of the following:
      - (i) give to the Commission, within the period and in the manner and form specified in the notice, information that substantiates the explanation set out in the statement;
      - (ii) produce to the Commission, within the period and in the manner specified in the notice, documents that substantiate the explanation set out in the statement.
  - (3) A notice under subsection (2) is to be known as a ***carbon tax removal substantiation notice***.
  - (4) A period specified in a carbon tax removal substantiation notice must be 21 days after the notice is given.
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- (5) A carbon tax removal substantiation notice must explain the effect of:
- (a) section 60FB; and
  - (b) section 60FC; and
  - (c) sections 137.1 and 137.2 of the *Criminal Code*.

*Section does not limit section 60H*

- (6) This section does not limit section 60H (which is about the price-related information-gathering powers of the Commission).

*Section does not limit section 155*

- (7) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

### **60FB Extending periods for complying with carbon tax removal substantiation notices**

- (1) An entity that has been given a carbon tax removal substantiation notice may, at any time within 14 days after the notice was given to the entity by the Commission, apply in writing to the Commission for an extension of the period for complying with the notice.
- (2) The Commission may, by written notice given to the entity, extend the period within which the entity must comply with the notice, so long as the extension is for a period of not more than 28 days.

### **60FC Compliance with carbon tax removal substantiation notices**

- (1) An entity that is given a carbon tax removal substantiation notice must comply with it within the applicable compliance period for the notice.
- (2) The *applicable compliance period* for a carbon tax removal substantiation notice is:
  - (a) the period of 21 days specified in the notice; or
  - (b) if the period for complying with the notice has been extended under section 60FB—the period as so extended;and includes (if an application has been made under section 60FB for an extension of the period for complying with the notice) the

period up until the time when the applicant is given notice of the Commission's decision on the application.

- (3) An entity commits an offence if:
- (a) the entity is subject to a requirement under subsection (1);  
and
  - (b) the entity is capable of complying with the requirement; and
  - (c) the entity omits to do an act; and
  - (d) the omission breaches the requirement.

Penalty: 200 penalty units.

- (4) Subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (5) If subsection (3) of this section applies to an individual (whether or not because of subsection 6(2)), subsection (3) of this section has effect, in relation to the individual, as if the reference to 200 penalty units were a reference to 40 penalty units.
- (6) If subsection (1) of this section applies to an individual (whether or not because of subsection 6(2)), the individual is excused from giving information or producing a document in accordance with a carbon tax removal substantiation notice on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.

## **Division 2B—Carbon tax removal substantiation statements**

### **60FD Carbon tax removal substantiation statements**

#### *Scope*

- (1) This section applies to an entity if the entity:
- (a) is an electricity retailer that sells electricity to electricity customers; or
  - (b) is a natural gas retailer that sells natural gas to natural gas customers; or
  - (c) is a bulk SGG importer that sells synthetic greenhouse gas to SGG customers.

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*Carbon tax removal substantiation statement*

- (2) Within 30 days after the Royal Assent day, the entity must give to the Commission:
- (a) a written statement that sets out:
    - (i) if the entity has electricity customers—the entity’s estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity’s cost savings that have been, are, or will be, directly or indirectly attributable to the carbon tax repeal and that have been, are being, or will be, passed on to each class of electricity customers during the financial year that began on 1 July 2014; and
    - (ii) if the entity has natural gas customers—the entity’s estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity’s cost savings that have been, are, or will be, directly or indirectly attributable to the carbon tax repeal and that have been, are being, or will be, passed on to each class of natural gas customers during the financial year that began on 1 July 2014; and
    - (iii) if the entity has SGG customers—the entity’s estimate, on an average annual percentage price basis, or an average annual dollar price basis, of the entity’s cost savings that have been, are, or will be, directly or indirectly attributable to the carbon tax repeal and that have been, are being, or will be, passed on to each class of SGG customers during the financial year that began on 1 July 2014; and
  - (b) information that substantiates the estimate or estimates set out in the statement.
- Note: Section 137.1 of the *Criminal Code* creates an offence of providing false or misleading information.
- (3) A statement under paragraph (2)(a) is to be known as a ***carbon tax removal substantiation statement***.
- (4) If the entity has given a carbon tax removal substantiation statement to the Commission, the entity must ensure that a copy of the statement is available on the entity’s website, in a way that is readily accessible by the public, until the end of 30 June 2015.

*Compliance*

- (5) An entity commits an offence if:
- (a) the entity is subject to a requirement under subsection (2) or (4); and
  - (b) the entity is capable of complying with the requirement; and
  - (c) the entity omits to do an act; and
  - (d) the omission breaches the requirement.

Penalty: 500 penalty units.

- (6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (7) If subsection (5) of this section applies to an individual (whether or not because of subsection 6(2)), subsection (5) of this section has effect, in relation to the individual, as if the reference to 500 penalty units were a reference to 40 penalty units.
- (8) If subsection (2) of this section applies to an individual (whether or not because of subsection 6(2)), the individual is excused from giving an estimate or information under subsection (2) of this section on the ground that the estimate or information might tend to incriminate the individual or expose the individual to a penalty.

*Section does not limit section 60H*

- (9) This section does not limit section 60H (which is about the price-related information-gathering powers of the Commission).

*Section does not limit section 155*

- (10) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

*Report to Parliament*

- (11) Within 13 months after the Royal Assent day, the Commission must report to Parliament in respect of compliance by all entities.

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**Division 2C—Statements for customers****60FE Statements for customers***Scope*

- (1) This section applies to an entity if the entity:
  - (a) is an electricity retailer that sells electricity to electricity customers; or
  - (b) is a natural gas retailer that sells natural gas to natural gas customers.

*Preparation of statement*

- (2) Within 30 days after the Royal Assent day, the entity must prepare a statement that:
  - (a) if the entity has electricity customers—identifies, on an average annual percentage price basis, or an average annual dollar price basis, the estimated cost savings, to each class of electricity customers, that:
    - (i) have been, are, or will be, directly or indirectly attributable to the carbon tax repeal; and
    - (ii) are for the financial year that began on 1 July 2014; and
  - (b) if the entity has natural gas customers—identifies, on an average annual percentage price basis, or an average annual dollar price basis, the estimated cost savings, to each class of natural gas customers, that:
    - (i) have been, are, or will be, directly or indirectly attributable to the carbon tax repeal; and
    - (ii) are for the financial year that began on 1 July 2014.

*Communication of contents of statement to customers*

- (3) During the period:
  - (a) beginning 30 days after the Royal Assent day; and
  - (b) ending 60 days after the Royal Assent day;the entity must ensure that the contents of the statement prepared by it under subsection (2) that relates to a class of electricity customers or natural gas customers is communicated to each customer of that class.

Note: Section 137.1 of the *Criminal Code* creates an offence of providing false or misleading information.

*Compliance*

- (4) An entity commits an offence if:
- (a) the entity is subject to a requirement under subsection (2) or (3); and
  - (b) the entity is capable of complying with the requirement; and
  - (c) the entity omits to do an act; and
  - (d) the omission breaches the requirement.

Penalty: 400 penalty units.

- (5) Subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (6) If subsection (4) of this section applies to an individual (whether or not because of subsection 6(2)), subsection (4) of this section has effect, in relation to the individual, as if the reference to 400 penalty units were a reference to 40 penalty units.
- (7) If subsection (2) or (3) of this section applies to an individual (whether or not because of subsection 6(2)), the individual is excused from:
- (a) preparing a statement under subsection (2) of this section; or
  - (b) communicating the contents of a statement under subsection (3) of this section;
- on the ground that the information in the statement might tend to incriminate the individual or expose the individual to a penalty.

**Division 3—Price monitoring in relation to the carbon tax repeal etc.**

**60G Commission may monitor prices in relation to the carbon tax repeal etc.**

*Price monitoring—carbon tax repeal transition period*

- (1) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices charged by entities for supplies, in the carbon tax repeal transition period, of relevant goods.
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Note: For *relevant goods*, see subsection (11).

- (2) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices:
- (a) advertised; or
  - (b) displayed; or
  - (c) offered;
- for supplies, in the carbon tax repeal transition period, of relevant goods by entities.

Note: For *relevant goods*, see subsection (11).

- (3) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices charged for supplies, in the carbon tax repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).
- (4) The Commission may monitor prices to assess the general effect of the carbon tax repeal on prices:
- (a) advertised; or
  - (b) displayed; or
  - (c) offered;
- for supplies, in the carbon tax repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

*Price monitoring—price exploitation*

- (5) The Commission may monitor prices to assist the Commission's consideration of whether an entity has engaged, is engaging, or may in the future engage, in price exploitation in relation to the carbon tax repeal.

*Price monitoring—pre-repeal transition period*

- (6) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices charged by entities for supplies, in the pre-repeal transition period, of relevant goods.

Note 1: For *pre-repeal transition period*, see subsection (13).

Note 2: For *relevant goods*, see subsection (11).

(7) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices:

- (a) advertised; or
- (b) displayed; or
- (c) offered;

for supplies, in the pre-repeal transition period, of relevant goods by entities.

Note 1: For *pre-repeal transition period*, see subsection (13).

Note 2: For *relevant goods*, see subsection (11).

(8) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices charged for supplies, in the pre-repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

Note: For *pre-repeal transition period*, see subsection (13).

(9) The Commission may monitor prices to assess the general effect of the carbon tax scheme on prices:

- (a) advertised; or
- (b) displayed; or
- (c) offered;

for supplies, in the pre-repeal transition period, of goods by an entity for which there is an entry in the Information Database (within the meaning of the *Clean Energy Act 2011*).

Note: For *pre-repeal transition period*, see subsection (13).

*Section does not limit Part VIIA*

(10) This section does not limit Part VIIA (which is about prices surveillance).

*Relevant goods*

(11) For the purposes of this section, the following are *relevant goods*:

- (a) regulated goods;
- (b) other goods of a kind specified in a legislative instrument under subsection (12).

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- (12) The Minister may, by legislative instrument, specify one or more kinds of goods for the purposes of paragraph (11)(b).

*Pre-repeal transition period*

- (13) For the purposes of this section, ***pre-repeal transition period*** means the period:
- (a) beginning at the commencement of this section; and
  - (b) ending at the end of 30 June 2014.

## **60H Information-gathering powers**

- (1) A member of the Commission may, by written notice given to a person, require the person:
- (a) to give the Commission specified information in writing signed by:
    - (i) the person; or
    - (ii) if the person is a body corporate—a competent officer of the body corporate; or
  - (b) to produce to the Commission specified documents;
- if:
- (c) the information, or information contained in the documents, relates to prices or the setting of prices; and
  - (d) the member reasonably believes that the information, or information contained in the documents, will or may be useful to the Commission in monitoring prices as mentioned in any of subsections 60G(1) to (9).
- Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for providing false or misleading information or documents.
- (2) Information or documents that may be required under subsection (1) may relate to prices, or the setting of prices:
- (a) before or after the carbon tax repeal; and
  - (b) before or after the start of the carbon tax repeal transition period; and
  - (c) in a situation, or during a period, specified in the notice.
- (3) Subsection (2) does not limit subsection (1).
- (4) A person commits an offence if:

- (a) the person is subject to a requirement under subsection (1);  
and
- (b) the person is capable of complying with the requirement; and
- (c) the person omits to do an act; and
- (d) the omission breaches the requirement.

Penalty: 20 penalty units.

- (5) An individual is excused from giving information or producing a document in accordance with a requirement under subsection (1) on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.

*Section does not limit section 60FA*

- (5A) This section does not limit section 60FA (which is about carbon tax removal substantiation notices).

*Section does not limit section 155*

- (6) This section does not limit section 155 (which is about the general information-gathering powers of the Commission).

## 60J Reporting

- (1) The Commission must, within 28 days after the end of each quarter, give the Minister a written report about the operations of the Commission under this Part during the quarter.
- (2) A report under subsection (1) must include particulars of:
  - (a) all notices given under section 60E during the quarter; and
  - (b) all variations or revocations during the quarter of notices given under section 60E.
- (3) Subsection (2) does not limit subsection (1).
- (4) For the purposes of this section, a *quarter* is a period of 3 months:
  - (a) that occurs wholly or partly during the carbon tax repeal transition period; and
  - (b) that starts on any of the following days in a year:
    - (i) 1 January;

- (ii) 1 April;
  - (iii) 1 July;
  - (iv) 1 October.
- (5) As soon as practicable after the Minister receives a report under subsection (1), the Minister must make the report public by such means as the Minister considers appropriate.
- (6) If this section commences during a quarter (but not on the first day of a quarter):
- (a) no report is to be made at the end of the quarter; but
  - (b) the report made at the end of the next quarter is also to include the information required by subsections (1) and (2) in relation to the previous quarter.

#### **Division 4—False or misleading representations about the effect of the carbon tax repeal etc. on prices**

##### **60K False or misleading representations about the effect of the carbon tax repeal etc. on prices**

An entity must not, in trade or commerce, in connection with:

- (a) the supply or possible supply of goods or services; or
- (b) the promotion by any means of the supply or use of goods or services;

make a false or misleading representation, during the carbon tax repeal transition period, concerning the effect of:

- (c) the carbon tax repeal or a part of the carbon tax repeal; or
- (d) the carbon tax scheme or a part of the carbon tax scheme;

on the price for the supply of the goods or services.

#### **Division 5—Infringement notices**

##### **60L Issuing an infringement notice**

*Issuing an infringement notice*

- (1) If the Commission has reasonable grounds to believe that a person has contravened an infringement notice provision, the Commission may issue an infringement notice to the person.

- (2) The Commission must not issue more than one infringement notice to the person for the same alleged contravention of the infringement notice provision.
- (3) The infringement notice does not have any effect if the notice:
  - (a) is issued more than 12 months after the day on which the contravention of the infringement notice provision is alleged to have occurred; or
  - (b) relates to more than one alleged contravention of an infringement notice provision by the person.

*Matters to be included in an infringement notice*

- (4) An infringement notice must:
  - (a) be identified by a unique number; and
  - (b) state the day on which it is issued; and
  - (c) state the name and address of the person to whom it is issued; and
  - (d) identify the Commission; and
  - (e) state how the Commission may be contacted; and
  - (f) give details of the alleged contravention by the person, including:
    - (i) the date of the alleged contravention; and
    - (ii) the particular infringement notice provision that was allegedly contravened; and
  - (g) state the maximum pecuniary penalty that the court could order the person to pay under section 76 for the alleged contravention; and
  - (h) specify the penalty that is payable in relation to the alleged contravention; and
  - (i) state that the penalty is payable within the infringement notice compliance period for the notice; and
  - (j) state that the penalty is payable to the Commission on behalf of the Commonwealth; and
  - (k) explain how payment of the penalty is to be made; and
  - (l) explain the effect of sections 60M, 60N, 60P and 60Q.

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*Amount of penalty*

- (5) The penalty to be specified in an infringement notice that is to be issued to a person in relation to an alleged contravention of an infringement notice provision must be:
- (a) if the person is a listed corporation—600 penalty units; or
  - (b) if the person is a body corporate other than a listed corporation—60 penalty units; or
  - (c) if the person is not a body corporate—12 penalty units.

**60M Effect of compliance with an infringement notice***Scope*

- (1) This section applies if:
- (a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and
  - (b) the person pays the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
  - (c) the infringement notice is not withdrawn under section 60Q.

*Effect*

- (2) The person is not, merely because of the payment, regarded as:
- (a) having contravened the infringement notice provision; or
  - (b) having been convicted of an offence constituted by the same conduct that constituted the alleged contravention of the infringement notice provision.
- (3) No proceedings (whether criminal or civil) may be started or continued against the person, by or on behalf of the Commonwealth, in relation to:
- (a) the alleged contravention of the infringement notice provision; or
  - (b) an offence constituted by the same conduct that constituted the alleged contravention.

**60N Effect of failure to comply with an infringement notice**

If:

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- (a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and
  - (b) the person fails to pay the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
  - (c) the infringement notice is not withdrawn under section 60Q;
- the person is liable to proceedings under Part VI in relation to the alleged contravention of the infringement notice provision.

#### **60P Infringement notice compliance period for infringement notice**

- (1) The *infringement notice compliance period* for an infringement notice is the period of 28 days beginning on the day after the day on which the infringement notice is issued by the Commission.
- (2) Subsection (1) has effect subject to subsection (7).
- (3) The Commission may extend, by notice in writing, the infringement notice compliance period for the notice if the Commission is satisfied that it is appropriate to do so.
- (4) Only one extension may be given, and the extension must not be for longer than 28 days.
- (5) Notice of the extension must be given to the person who was issued the infringement notice.
- (6) A failure to comply with subsection (5) does not affect the validity of the extension.
- (7) If the Commission extends the infringement notice compliance period for an infringement notice, a reference in this Division to the infringement notice compliance period for an infringement notice is taken to be a reference to the infringement notice compliance period as so extended.

#### **60Q Withdrawal of an infringement notice**

##### *Representations to the Commission*

- (1) A person to whom an infringement notice has been issued for an alleged contravention of an infringement notice provision may

make written representations to the Commission seeking the withdrawal of the infringement notice.

- (2) Evidence or information that the person, or a representative of the person, gives to the Commission in the course of making representations under subsection (1) is not admissible in evidence against the person or representative in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading).

*Withdrawal by the Commission*

- (3) The Commission may, by written notice (the ***withdrawal notice***) given to the person to whom an infringement notice was issued, withdraw the infringement notice if the Commission is satisfied that it is appropriate to do so.
- (4) Subsection (3) applies whether or not the person has made representations seeking the withdrawal.

*Content of withdrawal notices*

- (5) The withdrawal notice must state:
- (a) the name and address of the person; and
  - (b) the day on which the infringement notice was issued to the person; and
  - (c) that the infringement notice is withdrawn; and
  - (d) that proceedings under Part VI may be started or continued against the person in relation to:
    - (i) the alleged contravention the infringement notice provision; or
    - (ii) an offence constituted by the same conduct that constituted the alleged contravention.

*Time limit for giving withdrawal notices*

- (6) To be effective, the withdrawal notice must be given to the person within the infringement notice compliance period for the infringement notice.

*Refunds*

- (7) If the infringement notice is withdrawn after the person has paid the penalty specified in the infringement notice, the Commission must, on behalf of the Commonwealth, refund to the person an amount equal to the amount paid.

Note: For appropriation, see section 28 of the *Financial Management and Accountability Act 1997*.

**60R Effect of this Division**

This Division does not:

- (a) require an infringement notice to be issued to a person for an alleged contravention of an infringement notice provision; or
- (b) affect the liability of a person to proceedings under Part VI in relation to an alleged contravention of an infringement notice provision if:
  - (i) an infringement notice is not issued to the person for the alleged contravention; or
  - (ii) an infringement notice issued to a person for the alleged contravention is withdrawn under section 60Q; or
- (c) prevent a court from imposing a higher penalty than the penalty specified in the infringement notice if the person does not comply with the notice.

**4 Subsection 75B(1)**

After “section”, insert “60C, 60K or”.

**5 After subparagraph 76(1)(a)(i)**

Insert:

- (ii) section 60C;
- (iia) section 60K;

**6 After paragraph 76(1A)(b)**

Insert:

- (ba) for each act or omission to which this section applies that relates to section 60C or 60K—6,471 penalty units; and

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**7 Before paragraph 76(1B)(a)**

Insert:

- (aa) for each act or omission to which this section applies that relates to section 60C or 60K—1,295 penalty units; and

**8 Paragraph 77A(3) (at the end of the definition of *civil liability*)**

Add “or Part V”.

**9 Paragraph 80(1)(a)**

Repeal the paragraph, substitute:

- (a) a contravention of any of the following provisions:
  - (i) a provision of Part IV;
  - (ii) a provision of Division 2 or 5 of Part IVB;
  - (iii) section 60C;
  - (iv) section 60K; or

**10 At the end of subsection 80(1A)**

Add “, 60C or 60K”.

**11 After section 80**

Insert:

**80A Price exploitation in relation to the carbon tax repeal—orders limiting prices or requiring refunds of money**

- (1) If, on the application of the Commission, the Court is satisfied that a person has engaged in conduct constituting a contravention of section 60C, the Court may make either or both of the following orders:
  - (a) an order requiring that person, or a person involved in the contravention, not to make a regulated supply of a kind specified in the order for a price in excess of the price specified in the order while the order remains in force;
  - (b) an order requiring that person, or a person involved in the contravention, to refund money to a person specified in the order.

Note: Section 60C is about price exploitation in relation to the carbon tax repeal.

(2) This section does not limit section 80.

(3) In this section:

*price* has the same meaning as in Part V.

*regulated supply* has the same meaning as in Part V.

**12 Subsection 82(1)**

After “IVB”, insert “, or of section 60C or 60K,”.

**13 Section 83**

After “IVB”, insert “, or of section 60C or 60K,”.

**14 Paragraphs 84(1)(b) and (3)(b)**

After “IVB”, insert “or V”.

**15 After paragraph 85(a)**

Insert:

(aa) engaged in conduct in contravention of section 60C or 60K;  
or

**16 Paragraph 86C(2)(a)**

Before “a”, insert “except in the case of contravening conduct that relates to section 60C or 60K—”.

**17 Paragraph 86C(2)(b)**

Before “a probation”, insert “except in the case of contravening conduct that relates to section 60C or 60K—”.

**18 Subsection 86C(4) (paragraph (a) of the definition of *contravening conduct*)**

After “section”, insert “60C, 60K or”.

**19 Subsection 87(1)**

After “IVB”, insert “, or of section 60C or 60K,”.

**20 Paragraph 87(1A)(a)**

After “IVB”, insert “or section 60C or 60K”.

**21 Paragraph 87(1A)(b)**

Omit “45E) or Division 2 of Part IVB”, substitute “45E), Division 2 of Part IVB or section 60C or 60K”.

**22 Paragraph 87(1B)(a)**

Omit “45E) or Division 2 of Part IVB”, substitute “45E), Division 2 of Part IVB or section 60C or 60K”.

**23 Subsection 87(1C)**

Omit “or Division 2 of Part IVB”, substitute “, Division 2 of Part IVB or section 60C or 60K”.

**24 Subsection 155AAA(21) (paragraph (a) of the definition of *core statutory provision*)**

After “Part IV,”, insert “V,”.

**25 Subsection 155AAA(21) (after paragraph (b) of the definition of *protected information*)**

Insert:

(ba) information that was obtained by the Commission under paragraph 60FD(2)(b) or section 60FA or 60H; or

**26 Before subparagraph 163A(1)(a)(ii)**

Insert:

(i) Part V;

## **Schedule 3—Repeal of tax offset for conservation tillage**

### ***Clean Energy (Consequential Amendments) Act 2011***

#### **1 Subsection 2(1) (table item 6)**

Repeal the item.

#### **2 Part 3 of Schedule 2**

Repeal the Part.

### ***Income Tax Assessment Act 1997***

#### **3 Section 67-23 (table item 24)**

Repeal the item.

#### **4 Subdivision 385-J**

Repeal the Subdivision.

#### **5 Subsection 995-1(1) (definition of *eligible no-till seeder*)**

Repeal the definition.

#### **6 Application of amendments**

The amendments made by this Schedule apply to assessments for the 2014-15 income year and later income years.

Note: The provisions of the *Income Tax Assessment Act 1997* repealed by this Schedule will continue to apply to assessments for the 2012-13 and 2013-14 income years.

#### **7 Transitional—timing relating to 2013-14 income year**

The following provisions of the *Income Tax Assessment Act 1997*:

- (a) subparagraph 385-175(1)(e)(ii);
- (b) subparagraph 385-190(1)(c)(ii);

apply for the purposes of assessments for the 2013-14 income year as if those provisions referred to 30 June 2014 rather than 30 June 2015.

## **Schedule 4—Repeal of the Steel Transformation Plan Act 2011**

### ***Steel Transformation Plan Act 2011***

#### **1 The whole of the Act**

Repeal the Act.

Note: On the repeal of the Act, the Steel Transformation Plan 2012 (which was made under Part 3 of the Act) will also cease to have effect.

#### **2 Effect of repeal**

(1) To avoid doubt:

- (a) no assistance is payable under the old Act or the old Plan after the commencement of this Schedule, including in respect of the half-year ending on 30 June 2014; and
- (b) a return is not required to be (and cannot be) provided under Part 4 of the old Plan in respect of the half-year ending on 30 June 2014 (or any later half-year); and
- (c) the following conditions cease to have effect on the commencement of this Schedule:
  - (i) conditions to which payments of competitiveness assistance advances under the old Act were subject;
  - (ii) conditions to which registrations of corporations under the old Plan as STP participants were subject; and
- (d) the Department's annual report for the financial year ending on 30 June 2014 (or any later financial year) is not required to comply with section 26 of the old Act.

(2) In this item:

***old Act*** means the *Steel Transformation Plan Act 2011*.

***old Plan*** means the Steel Transformation Plan 2012 made under Part 3 of the old Act.

## Schedule 5—Australian Renewable Energy Agency's finances

### *Australian Renewable Energy Agency Act 2011*

#### **1 Subsection 64(1) (table)**

Repeal the table, substitute:

<b>Yearly maximum payments to ARENA</b>		
<b>Item</b>	<b>Financial year</b>	<b>Amount for financial year</b>
1	2013-2014	\$581,276,000.00
2	2014-2015	\$194,340,000.00
3	2015-2016	\$89,991,000.00
4	2016-2017	\$56,950,000.00
5	2017-2018	\$499,893,000.00
6	2018-2019	\$237,000,000.00
7	2019-2020	\$468,340,000.00
8	2020-2021	\$135,000,000.00
9	2021-2022	\$135,000,000.00

#### **2 Subsections 64(3) to (6)**

Repeal the subsections.

#### **3 Subsection 65(4) (note)**

Omit “subsections 64(2) to (6)”, substitute “subsection 64(2)”.

#### **4 Application**

To avoid doubt:

- (a) the amendments made by this Part do not affect how the *Australian Renewable Energy Agency Act 2011* applied, before the commencement of this Part, in relation to the financial year 2012-2013; but
- (b) for the purposes of that Act as amended by this Part, subsection 64(2) of that Act does not apply so as to carry

over to the 2013-2014 financial year any unspent amount from the 2012-2013 financial year.

Note: The unspent amount from the 2012-2013 financial year has instead been directly factored into amounts specified in the table substituted by item 1.

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*[Minister's second reading speech made in—  
House of Representatives on 14 July 2014  
Senate on 15 July 2014]*

(167/14)

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