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Climate Change (State Action) Act 2008

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Climate Change (State Action) Act 2008

An Act for certain measures to help the State address the challenges of climate change and contribute to the broader national and international response to those challenges and for related purposes

[Royal Assent 22 October 2008]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title

This Act may be cited as the Climate Change (State Action) Act 2008 .

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

adaptation measures means measures taken to moderate harm, or to take advantage of opportunities, associated with the process of adjustment to the actual or expected climate and its effects;

anthropogenic emissions means emissions of greenhouse gases, precursors of greenhouse gases and aerosols caused by human activities, including the following:

- (a) the burning of fossil fuels;
- (b) deforestation;
- (c) land-use and land-use changes;
- (d) livestock production;
- (e) fertilisation;
- (f) waste management;
- (g) industrial processes;

anthropogenic removals means the withdrawal of greenhouse gases from the atmosphere as a result of deliberate human activities, including –

- (a) enhancing biological sinks of carbon dioxide; and
- (b) using chemical engineering to achieve long-term removal and storage;

climate change means a change of climate over a period of time which –

- (a) is attributable directly or indirectly to human activity; and
- (b) alters the composition of the global atmosphere; and
- (c) is in addition to natural climate variability observed over comparable periods of time;

emissions offset programs means programs designed to recognise or achieve reductions in greenhouse gas emissions, or the removal of such emissions, taking into account any criteria prescribed by the regulations;

greenhouse gas emissions means emissions of –

- (a) carbon dioxide; or
- (b) methane; or
- (c) nitrous oxide; or
- (d) hydrofluorocarbons; or
- (e) perfluorocarbons; or
- (f) sulfur hexafluoride; or
- (g) gases prescribed by the regulations; or

(h) gases prescribed by regulations under the *National Greenhouse and Energy Reporting Act 2007* of the Commonwealth to be a greenhouse gas for the purposes of section 7A(1)(g) of that Act;

Greenhouse Gas Inventory means the Australian National Greenhouse Accounts: State and Territory Greenhouse Gas Inventories published by the Commonwealth Government;

measurement includes calculation;

person includes any kind of body, including a body politic;

prescribe includes provide for;

recognition includes any form of accreditation, authorisation, endorsement, licensing or registration;

regulations means regulations made and in force under this Act;

regulatory recommendation means a Ministerial recommendation under section 6 ;

Tasmania's emissions reduction target means the emissions reduction target set under section 5 .

4. Objects of Act

The objects of this Act are to –

- (a) support Tasmania to take action on climate change by providing for –
 - (i) the setting of a target for the reduction of greenhouse gas emissions in Tasmania; and
 - (ii) reporting and Parliamentary oversight of progress made towards achieving Tasmania's emissions reduction target and other targets; and
- (b) identify, promote and support measures to reduce Tasmania's greenhouse gas emissions; and
- (c) identify, promote and support measures to help Tasmania adapt to climate change and to manage the risks and opportunities of a changing climate; and
- (d) facilitate Tasmania's contribution to international, national and local government emissions reduction and adaptation measures to support the transition to a low emissions future; and
- (e) support a consultative partnership approach with relevant business, industry, scientific, environmental and community bodies, children and young people, local government, relevant unions, the peak body representing trade unions and the Tasmanian community to reduce greenhouse gas emissions and build resilience to the impacts of climate change, including considering the impacts of climate change on –
 - (i) the health and wellbeing of Tasmanians; and
 - (ii) future generations.

PART 2 - Climate Change Action

Division 1 - Target and action planning

5. Tasmania's emissions reduction target

- (1) Tasmania's emissions reduction target under this Act is to achieve net zero greenhouse gas emissions, or lower, in Tasmania from 30 June 2030.
- (2) For the purposes of subsection (1), **net zero greenhouse gas emissions** means a balance between the amount of anthropogenic emissions into the atmosphere and the amount of anthropogenic removals from the atmosphere in each year.

5A. Climate change action plan

- (1) The Minister is to prepare a climate change action plan within 2 years after the commencement of this Act and at least every 5 years thereafter.
- (2) Subsection (1) notwithstanding, the Minister is to prepare the first climate change action plan within 12 months of the day on which this Act receives the Royal Assent.
- (3) Before preparing a climate change action plan under subsection (1) or (2), the Minister is to cause a draft climate change action plan to be published online and call for public comment.
- (4) A climate change action plan must include details of the emissions reduction measures that Tasmania will adopt.
- (5) The actions in the climate change action plan must –
 - (a) reduce Tasmania's greenhouse gas emissions; and
 - (b) build resilience to the impacts of a changing climate through adaptation measures; and
 - (c) manage climate-related risks and take advantage of potential opportunities from a changing climate.
- (6) In developing a climate change action plan, the Minister is to take into account the following matters:
 - (a) the objects of this Act;
 - (b) Tasmania's emissions reduction target;
 - (c) greenhouse gas emissions for Tasmania contained in the latest Greenhouse Gas Inventory;
 - (d) the latest and best available science on the projected impacts of climate change on Tasmania;
 - (e) consultation with relevant business, industry, scientific, environmental and community bodies, children and young people, local government, relevant unions, the peak body representing trade unions and the Tasmanian community;
 - (f) evidence on the effectiveness of existing measures to reduce Tasmania's greenhouse gas emissions and adapt to the impacts of climate change;
 - (g) the findings of the most recent statewide climate change risk assessment and emissions reduction and resilience plans;
 - (h) developments in other jurisdictions;
 - (i) any other matter the Minister considers relevant.
- (7) The Minister is to publish the climate change action plan in such formats as the Minister considers appropriate to ensure easy accessibility to a wide range of audiences, including children and young people.
- (8) The Minister is to cause a copy of the climate change action plan to be tabled in each House of Parliament.

5B. Statewide climate change risk assessment

- (1) The Minister is to prepare a statewide climate change risk assessment within 2 years after the commencement of this Act and at least every 5 years thereafter.
- (2) In developing a statewide climate change risk assessment, the Minister is to take into account the following matters:
 - (a) the latest and best available science on the projected impacts of climate change on Tasmania;
 - (b) consideration of the risks associated with energy transition, including social and economic impacts;
 - (c) consideration of economic, social and environmental implications of climate change and assessment of the associated risks to Tasmanian communities, natural environments and ecosystems and economic activity;
 - (d) the impact of climate change on –
 - (i) the health and wellbeing of Tasmanians; and
 - (ii) future generations;
 - (e) any other matter that the Minister considers relevant.
- (3) The Minister is to cause a copy of the climate change risk assessment to be tabled in each House of Parliament.

5C. Sector-based emissions reduction and resilience plans

- (1) The Minister, in consultation with each relevant portfolio Minister, is to consult with business and industry representatives to develop a sector-based emissions reduction and resilience plan for each of the following sectors:
 - (a) energy;
 - (b) transport;
 - (c) industrial processes and product use;
 - (d) agriculture;
 - (e) land-use, land-use change and forestry;
 - (f) waste;
 - (g) any other sector or sub-sector determined by the Minister.
- (2) The development of an emissions reduction and resilience plan must support –
 - (a) greenhouse gas emissions reduction; and
 - (b) the transition to a low emissions economy; and
 - (c) resilience to climate-related risks.
- (3) The Minister is to prepare sector-based emissions reduction and resilience plans –
 - (a) in the case of transport, within 12 month of the day on which this Act receives the Royal Assent; and
 - (b) in all other cases, within 24 months of the day on which this Act receives the Royal Assent.
- (4) Before preparing a sector-based emissions reduction and resilience plan under subsection (1) or (3), the Minister is to cause a draft sector-based emissions reduction and resilience plan to be published online and call for public comment.
- (5) An emissions reduction and resilience plan must be updated at least every 5 years.
- (6) In developing an emissions reduction and resilience plan, the objects of this Act must be taken into account.
- (7) The Minister is to cause a copy of an emissions reduction and resilience plan to be tabled in each House of Parliament.

5D. Greenhouse gas report

- (1) The Minister is to prepare a greenhouse gas report every year.
- (2) The greenhouse gas report is to include –
 - (a) details of Tasmania’s greenhouse gas emissions for the sectors reported in the Greenhouse Gas Inventory; and
 - (b) details of Tasmania’s progress towards achieving its emissions reduction target; and
 - (c) any other relevant analysis and reporting.
- (3) The Minister is to cause a copy of the greenhouse gas report to be tabled in each House of Parliament.

5E. Climate change activity statement

- (1) The Minister is to prepare a climate change activity statement every year.
- (2) A climate change activity statement is to include –
 - (a) a description of Tasmania’s adaptation measures and measures to reduce greenhouse gas emissions; and
 - (b) details of progress towards achieving the targets and objectives of the sector-based emission reduction and resilience plans; and
 - (c) any other relevant analysis and reporting.
- (3) The Minister is to cause a copy of the climate change activity statement to be tabled in each House of Parliament.

Division 2 - Climate change regulations**6. Regulation-making power**

The Governor may, on the recommendation of the Minister, make regulations for the purposes of this Act.

7. Greenhouse gas emission regulations

- (1) The regulations may, in connection with the operation of section 5 or any other provision of this Act (or other regulations) –
 - (a)
 - (b) prescribe methods for measuring reductions in greenhouse gas emissions; and
 - (c) prescribe interim State targets; and
 - (d) prescribe targets and interim targets for specific sectors of the State's economy; and
 - (e) prescribe policy targets; and
 - (f) prescribe specific baselines for particular areas of activity (as subsidiary components of the baseline); and
 - (g) prescribe other measures and matters relating to the measurement of greenhouse gas emissions.
- (2) The Minister, in making regulatory recommendations for the purposes of subsection (1) , is to have regard to –
 - (a) any previous action taken to limit or reduce greenhouse gas emissions; and
 - (b) the advice of relevant experts; and
 - (c) relevant methodologies and principles that apply in other Australian jurisdictions; and
 - (d) climate change actions taken in foreign jurisdictions that, by reason of their geographic, demographic, economic, industrial or infrastructural profile, face climate change challenges similar to

those facing Tasmania; and

(e) the desirability of achieving consistency with best national and international practice in prescribing the baseline and methods for measuring reductions in greenhouse gas emissions; and

(f) in the case of any amendment of the regulations, any new or updated methodologies or advice relating to the assessment, measurement or reporting of greenhouse gas emissions.

8. Emissions offset regulations

(1) The regulations may –

(a) provide for the recognition, facilitation or promotion of emissions offset programs; and

(b) prescribe ways of identifying or determining the types, and extent, of offsets that may form part of recognised emissions offset programs; and

(c) prescribe criteria allowing for the recognition of emissions offset programs capable of delivering multiple benefits (such as the removal of greenhouse gases from the atmosphere, biodiversity enhancement and economic development).

(2) The Minister, in making regulatory recommendations for the purposes of subsection (1), is to have regard to the desirability of enabling emissions offset programs recognised in Tasmania to also be recognised under national and international programs so as to promote the tradability of products and services.

9. Regulations generally

(1) The regulations may –

(a) require any person to provide specified reports, returns, documents or other forms of information to the Minister or another person; and

(b) require any person to keep specified records, statistics or other information; and

(c) authorise the Minister (or any person authorised by the Minister) to inspect any information required to be kept under the regulations and require any person to permit or facilitate any such inspection; and

(d) require the giving of notice before a specified activity or class of activities is commenced, and the notification of the occurrence of any specified event or class of events; and

(e) provide for the setting of targets for the State Government, including interim targets and specific targets for specified government agencies or instrumentalities for the reduction of greenhouse gas emissions from their activities in Tasmania; and

(f) provide for the service of any specified notice or document; and

(g) regulate the release or publication of specified information obtained in the administration of this Act.

(2) The regulations may be made so as to apply differently according to specified factors.

(3) The regulations may –

(a) confer powers and functions on the Minister; and

(b) authorise any matter to be from time to time determined, applied or regulated by any specified person.

(4) The regulations may provide for any matter by incorporating, either specifically or by reference and either wholly or in part and with or without modification, any code, standard or guideline, whether as in force at a particular time or as from time to time amended and whether published or issued before, on or after the day on which this Act commences.

(5) The regulations may –

(a) provide that a contravention of any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 30 penalty units and, in the case of a continuing offence, a further fine not exceeding 3 penalty units for each day during which the offence continues.

(6) In this section –

specified means specified in the regulations.

Division 3 -

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Division 4 -

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PART 3 - Miscellaneous

16. Confidentiality

(1) A person involved in the administration of this Act must not disclose or use any confidential information that the person acquires by reason of that involvement except –

- (a) as may be necessary for the purposes of this Act or the regulations; or
- (b) for a purpose authorised or required by or under another Act of the State or an Act of the Commonwealth; or
- (c) with the express written consent of the person to whom the information relates; or
- (d) when required to do so by a court or tribunal constituted by law.

Penalty: Fine not exceeding 50 penalty units.

(2)

(3) This section does not apply to the recording, disclosure or use of information in a statistical or other form that could not reasonably be expected to cause any material detriment to a particular person.

(4) In this section –

confidential information means –

- (a) information that is commercial, financial, scientific or technical in nature that would reveal proprietary business, competitive or trade secret information of significant value if released; or
- (b) information that is commercially sensitive for some other reason; or
- (c) information that is brought within the ambit of this definition by the regulations.

17. Delegation

The Minister may delegate any of the Minister's powers or functions under this Act or the regulations other than –

- (a) this power of delegation; and
- (b)

18. Review of Act

(1) The Minister is to cause an independent review of the operation of this Act to be carried out on a four-yearly basis.

(2) The review is to address –

- (a) the extent to which the objects of this Act are being achieved; and
- (b) the extent to which additional legislative measures, if any, are considered necessary to achieve the targets set by this Act within the periods contemplated by this Act, including by the introduction of performance standards and other mandatory requirements; and
- (c) such other matters as the Minister may consider relevant to a review of this Act.

(3) The Minister is to take reasonable steps to ensure that the review is carried out in consultation with relevant business, industry, scientific, environmental and community bodies, children and young people, local government, relevant unions, the peak body representing trade unions and the Tasmanian community.

(4) The persons who carry out the review are to give the Minister a written report on its outcome.

(5) The Minister is to cause a copy of the report to be tabled in each House of Parliament within 10 sitting-days after it is given to the Minister.

(6)

19. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

- (a) the administration of this Act is assigned to the Premier; and
- (b) the department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

SCHEDULE 1

SCHEDULE 2