

Australian Capital Territory

# **Climate Change and Greenhouse Gas Reduction Act 2010**

**A2010-41**

**Republication No 1**

**Effective: 5 November 2010**

Republication date: 5 November 2010

Act not amended

Unauthorised version prepared by ACT Parliamentary Counsel's Office

## About this republication

### The republished law

This is a republication of the *Climate Change and Greenhouse Gas Reduction Act 2010* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 5 November 2010. It also includes any commencement, repeal or expiry affecting the republished law.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).

# Climate Change and Greenhouse Gas Reduction Act 2010

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Australian Capital Territory

# **Climate Change and Greenhouse Gas Reduction Act 2010**

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An Act to promote the development of policies and practices to address climate change, to set targets to reduce greenhouse gas emissions and to provide for monitoring and reporting in relation to the targets

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Climate Change and Greenhouse Gas Reduction Act 2010*.

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

*Note 2* A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

### 5 Objects of Act

The objects of this Act are—

- (a) to set targets to reduce greenhouse gas emissions and increase renewable energy use and generation in the ACT; and
- (b) to provide for monitoring of and reporting on progress made in the ACT to meet the targets; and
- (c) to facilitate the government's development of policies and programs to meet the targets and to address and adapt to climate change; and
- (d) to encourage private entities to take action to address climate change and recognise the entities that take action.

## Part 2                      Targets

### 6                      **ACT greenhouse gas emissions target**

- (1) The principal target (the *ACT target*) is to reduce greenhouse gas emissions in the ACT to achieve zero net emissions by 30 June 2060.
- (2) In this section:  
*zero net emissions* means that any emissions of greenhouse gas in the ACT are balanced by—
  - (a) avoidance and mitigation activities; and
  - (b) emissions offsets outside the ACT.

### 7                      **Interim greenhouse gas emissions targets**

- (1) The *interim targets* are to reduce greenhouse gas emissions in the ACT to—
  - (a) 40% less than 1990 emissions by 30 June 2020; and
  - (b) 80% less than 1990 emissions by 30 June 2050.
- (2) The Minister may determine additional interim targets.
- (3) A determination is a disallowable instrument.  
*Note*        A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (4) In this section:  
*1990 emissions* means the amount of greenhouse gas emissions in the ACT for the year ending on 30 June 1990.

### 8                      **Per person greenhouse gas emissions target**

The *per person target* is for the average amount of greenhouse gas emissions produced per person in the ACT each year to peak by 30 June 2013.

**9 Renewable energy targets**

- (1) The Minister must determine, within 6 months after the commencement of this Act, targets for the use or generation of renewable energy in the ACT.
- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**10 Energy efficiency targets**

- (1) The Minister must determine targets for the per person use of electricity (other than electricity generated from renewable energy sources) in the ACT.
- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**11 Measuring greenhouse gas emissions—determinations**

- (1) The Minister must determine a method for measuring greenhouse gas emissions.

*Note* The power to make an instrument includes power to do the following:

- (a) amend or repeal it (see Legislation Act, s 46);
- (b) make different provision for different categories (see Legislation Act, s 48).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) In making a determination, the Minister must—

- (a) seek, and have regard to, the advice of an independent entity to assist the Minister to determine the method for measuring greenhouse gas emissions; and
- (b) as far as practicable, ensure consistency with the best national and international practices in relation to measuring greenhouse gas emissions.

## 12 Annual report by independent entity

- (1) For each financial year, the Minister must ask an independent entity to prepare a report about greenhouse gas emissions and the targets mentioned in part 2 for the year.

**Example—independent entity**

independent competition and regulatory commission

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The report must include—
- (a) the amount of greenhouse gas emissions in the ACT for the year (the *annual emissions amount*), measured using the method determined under section 11; and
  - (b) an analysis of the ACT's progress in meeting the targets mentioned in part 2 for the year, including—
    - (i) a comparison of the annual emissions amount with the targets mentioned in part 2; and
    - (ii) identification of the main sources of greenhouse gas emissions in the ACT; and
    - (iii) identification of possible reasons for changes in greenhouse gas emissions from previous years; and
  - (c) any other information prescribed by regulation.
- (3) The independent entity must give the report to the Minister within 3 months after the end of the reporting period.
- (4) The Minister must present the report to the Legislative Assembly within 21 days after receiving the report from the independent entity.
- (5) However, if there are no sitting days during the 21-day period—
- (a) the Minister must give the report, and a copy for each member of the Legislative Assembly, to the Speaker; and

- (b) the report is taken for all purposes to have been presented to the Legislative Assembly on the day the Minister gives it to the Speaker (the *report day*); and
- (c) the Speaker must arrange for a copy of the report to be given to each member of the Legislative Assembly on the report day; and
- (d) despite paragraph (b), the Speaker must present the report to the Legislative Assembly on the next sitting day.

(6) In this section:

*reporting period*, for a financial year, means 2 years after the end of the financial year.

*Speaker* includes—

- (a) if the Speaker is unavailable—the Deputy Speaker; and
- (b) if both the Speaker and Deputy Speaker are unavailable—the clerk of the Legislative Assembly.

*unavailable*—the Speaker or Deputy Speaker is *unavailable* if—

- (a) he or she is absent from duty; or
- (b) there is a vacancy in the office of Speaker or Deputy Speaker.

### **13 Statement by Minister if targets not met**

- (1) This section applies if a target mentioned in this part for a financial year is not met.
- (2) The Minister must, within 6 sitting days after receiving a report from an independent entity under section 12 for the financial year, present a statement to the Legislative Assembly setting out—
  - (a) why the target was not met; and
  - (b) what action will be taken to meet any subsequent target, including how the action will differ from any action that was taken for the target that was not met.

## Part 3 Functions of Minister

### 14 Functions of Minister

- (1) The Minister has the following functions:
- (a) to regularly review issues relating to climate change;
  - (b) to promote action to meet the ACT target and the other targets mentioned in part 2;
  - (c) to develop, adopt or promote policies and programs relating to climate change;
  - (d) to consult business and community entities about issues relating to climate change;
  - (e) to consider and promote actions or strategies by business entities, including technological developments, to address or adapt to climate change or reduce greenhouse gas emissions;
  - (f) to promote the Territory's involvement in state, national and international climate change forums;
  - (g) to promote the commercialisation, generation and use of renewable energy in the ACT;
  - (h) to promote the commercialisation and use of other technologies to reduce greenhouse gas emissions in the ACT;
  - (i) to promote research and development consistent with the objects of this Act;
  - (j) to support the development of regional, national and international approaches to addressing climate change;
  - (k) to consider and recommend amending a territory law (including this Act) or a government policy or practice if the Minister reasonably believes an amendment is necessary to achieve the objects of this Act;
  - (l) to assess the impact of climate change on the Territory;
  - (m) to support public education about climate change;

(n) any other functions given to the Minister under this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

- (2) In the exercise of the Minister's functions, the Minister must, to the greatest extent practicable—
- (a) apply the inter-generational equity principle; and
  - (b) have regard to how measures to address climate change may affect people who are socially or financially disadvantaged; and
  - (c) engage the community on decisions that relate to climate change.
- (3) In the exercise of the Minister's functions, the Minister must, to the greatest extent practicable, work together with—
- (a) the Australian government; and
  - (b) State governments; and
  - (c) the Climate Change Council; and
  - (d) regional governments overseas; and
  - (e) relevant international, business, environmental and community entities.
- (4) In this section:
- the inter-generational equity principle* means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

## 15 Annual report by Minister

- (1) For each financial year, the Minister must prepare a report on—
- (a) the actions the Minister has taken during the year in the exercise of the Minister's functions under this Act; and

- (b) the effectiveness of government actions taken to reduce greenhouse gas emissions during the financial year; and
  - (c) the findings of a cost-benefit analysis of any government policies or programs implemented to meet the targets mentioned in part 2 during the financial year.
- (2) Each government agency must give the Minister information requested by the Minister about any policies developed or programs implemented by the agency during the financial year to address climate change, greenhouse gas emissions and the targets mentioned in part 2.
- (3) The Minister must present the report to the Legislative Assembly within 6 months after the end of the financial year.

## Part 4 Climate change council

### 16 Establishment of council

The Climate Change Council is established.

### 17 Functions of council

- (1) The main function of the council is to advise the Minister on matters relating to—
  - (a) reducing greenhouse gas emissions; and
  - (b) addressing, and adapting to, climate change.
- (2) The council also has any other function given to the council under this Act.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

*Note 2* A provision of a law that gives an entity a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

- (3) Without limiting subsection (1), the matters on which the council may advise the Minister include the following matters:
  - (a) actions or strategies to achieve energy efficiencies;
  - (b) actions or strategies to increase renewable energy use;
  - (c) actions or strategies to achieve the targets mentioned in part 2;
  - (d) community and business views on climate change, including—
    - (i) barriers to addressing climate change; and
    - (ii) proposed actions or strategies to overcome the barriers;
  - (e) actions or strategies to encourage private entities to take action to reduce greenhouse gas emissions and address climate change;
  - (f) actions taken or strategies implemented by private entities to reduce greenhouse gas emissions and address climate change;

- (g) commercial, regional, national and international practices or policies, including technological developments, to address climate change that may be used in the ACT.
- (4) In exercising its functions, the council—
- (a) must try to—
    - (i) consult representatives from business and the community, including environmental and conservation entities, on matters relating to climate change; and
    - (ii) provide information to private entities to encourage entities to take action to address, or adapt to, climate change; and
  - (b) must consider—
    - (i) the social, economic and environmental impact of issues relating to climate change; and
    - (ii) national and international practices or developments in climate change; and
    - (iii) any relevant report given to the Minister by an independent entity under section 12; and
    - (iv) information available in any other report the Minister requires the council to consider; and
  - (c) may consider any other relevant information.

## **18 Minister to consider council advice**

In exercising a function under this Act, the Minister must consider any relevant advice given to the Minister by the council.

## **19 Annual report by council**

- (1) For each financial year, the council must prepare a report about the council's activities during the financial year, including any advice given or recommendations made to the Minister.
- (2) The council must give the report to the Minister within 3 months after the end of the financial year.

- (3) The Minister must, within 21 days after receiving the report, present to the Legislative Assembly—
- (a) the report; and
  - (b) a statement by the Minister responding to any advice given or recommendations made to the Minister in the council's annual report.
- (4) However, if there are no sitting days during the 21-day period—
- (a) the Minister must give the report and the statement, and a copy of each for each member of the Legislative Assembly, to the Speaker; and
  - (b) the report and the statement are taken for all purposes to have been presented to the Legislative Assembly on the day the Minister gives it to the Speaker (the *report day*); and
  - (c) the Speaker must arrange for a copy of the report and a copy of the statement to be given to each member of the Legislative Assembly on the report day; and
  - (d) despite paragraph (b), the Speaker must present the report and the statement to the Legislative Assembly on the next sitting day.
- (5) In this section:
- Speaker* includes—
- (a) if the Speaker is unavailable—the Deputy Speaker; and
  - (b) if both the Speaker and Deputy Speaker are unavailable—the clerk of the Legislative Assembly.
- unavailable*—the Speaker or Deputy Speaker is *unavailable* if—
- (a) he or she is absent from duty; or
  - (b) there is a vacancy in the office of Speaker or Deputy Speaker.

## 20 Membership

- (1) The council consists of at least 5, but not more than 9, members appointed by the Minister.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

*Note 3* A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

- (2) The Minister must, to the greatest extent practicable, ensure that—
- (a) the council includes people with a broad range of skills and knowledge relating to addressing, or adapting to, climate change; and
  - (b) the following people are among the members appointed:
    - (i) a person to represent the interests of business;
    - (ii) a person to represent the community's interest in climate change;
    - (iii) a person to represent climate change science;
    - (iv) a person to represent environmental management;
    - (v) a person to represent the built environment;
    - (vi) a person to represent transport planning;
    - (vii) a person to represent people who are socially or financially disadvantaged;
    - (viii) an energy specialist;
    - (ix) a public employee.
- (3) The Minister may appoint a person as a member only if satisfied that the person—
- (a) is committed to addressing climate change; and
  - (b) has knowledge and experience in an area relevant to the operation of this Act.

- (4) The conditions of appointment of a member are the conditions stated in the appointment.

## 21 Chair

The Minister must appoint a member of the council (other than a member who is a public employee) to be the chair of the council.

## 22 Ending of appointments

- (1) The Minister may end the appointment of a member of the council—
- (a) if the member contravenes a territory law; or
  - (b) for misbehaviour; or
  - (c) if the member becomes bankrupt or personally insolvent; or
  - (d) if the member is convicted, or found guilty, in Australia of an offence punishable by imprisonment for at least 1 year; or
  - (e) if the member is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or
  - (f) if the member is absent for 3 consecutive council meetings without leave; or
  - (g) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

*Note* A person's appointment also ends if the person resigns (see Legislation Act, s 210).

- (2) The Minister may also end the appointment of a member (the *member concerned*) if the council tells the Minister in writing that it has resolved, by a majority of at least  $\frac{2}{3}$  of the members, to recommend to the Minister that the member's appointment be ended.
- (3) The council may pass a resolution mentioned in subsection (2) only if—

- (a) at least 3 weeks written notice of the intention to consider the proposed resolution has been given to the member concerned; and
- (b) the member concerned has been given an opportunity to make submissions and present documents to a meeting of the council; and
- (c) if the member concerned has used the opportunity mentioned in paragraph (b)—a summary of the member’s submissions is recorded in the minutes of the council and a copy of any documents presented is included in the minutes.

## Part 5 Sector agreements

### 23 Sector agreements

- (1) A *sector agreement* is an agreement with an entity under which the entity agrees on a voluntary basis to assist in reducing greenhouse gas emissions and meeting the targets mentioned in part 2 by introducing strategies to—
  - (a) reduce energy use; or
  - (b) increase use of renewable energy sources; or
  - (c) carry out other avoidance or mitigation activities.
- (2) A sector agreement must—
  - (a) be consistent with the objects of this Act; and
  - (b) include a requirement for the entity to review and report on the operation of the agreement.
- (3) A regulation may prescribe requirements for a sector agreement.

### 24 Register of agreements

- (1) The Minister must keep a register of sector agreements.
- (2) The register must be available for public inspection—
  - (a) on the internet site (if any) of the administrative unit responsible for administering this Act; and
  - (b) during ordinary office hours at an office of the administrative unit.

## Part 6 Miscellaneous

### 25 Information to be included in agency annual reports

A report prepared by a government agency under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include details of any policies developed or programs implemented by the agency during the year to address climate change, greenhouse gas emissions and the targets mentioned in part 2.

*Note* **Financial year** has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

### 26 Review of Act

The Minister must review the operation of this Act and present a report of the review to the Legislative Assembly—

- (a) as soon as practicable after the end of this Act's 5th and 10th years of operation; and
- (b) as soon as practicable after each subsequent 10 years of this Act's operation.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

### 27 Regulation-making power

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- administrative unit
- appoint
- disallowable instrument (see s 9)
- entity
- financial year
- function
- instrument (see s 14)
- may (see s 146)
- Minister (see s 162)
- must (see s 146)
- notifiable instrument (see s 10)
- person (see s 160)
- public employee
- regulation
- territory law
- year.

***council*** means the Climate Change Council established under section 16.

***government agency***—see the *Public Sector Management Act 1994*, dictionary.

***greenhouse gas emissions*** means emissions of any of the following gases:

- (a) carbon dioxide;
- (b) methane;
- (c) nitrous oxide;

- (d) hydrofluorocarbons;
- (e) perfluorocarbons;
- (f) sulphur hexafluoride;
- (g) any other gas prescribed by regulation.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

**3 Legislation history****Climate Change and Greenhouse Gas Reduction Act 2010 A2010-41**

notified LR 4 November 2010

s 1, s 2 commenced 4 November 2010 (LA s 75 (1))

remainder commenced 5 November 2010 (s 2)

**4 Amendment history****Commencement**

s 2 om LA s 89 (4)

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