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 –

*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;

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;

State’s 2050 target – see section 5.

4. Objects of Act

The objects of this Act are –

(a) to help Tasmania respond to the challenges of climate change by addressing issues associated with that phenomenon and, in particular, by providing for the setting of a target for the reduction of greenhouse gas emissions in the State as part of the national and international response to climate change; and

(b) to promote a commitment to action on climate change issues in Tasmania by providing for the development of –

(i) interim State targets for the reduction of greenhouse gas emissions in the State; and

(ii) suitable targets and interim targets, having the same aim, for specific sectors of the State’s economy; and

(c) to help Tasmania take advantage of the new social, economic and environmental opportunities that climate change will present; and

(d) to provide for reporting and Parliamentary oversight of progress being made towards achieving the State's 2050 target and other targets; and

(e) to promote energy efficiency and conservation; and

(f) to promote research and development in the development and use of technology for reducing or limiting greenhouse gas emissions or for dealing with and adapting
to the expected consequences of climate change, including technology for removing greenhouse gases from the atmosphere; and

(g) to promote and facilitate business and community consultation and early action on climate change issues; and

(h) to identify, promote and support measures to help Tasmania deal with and adapt to the expected consequences of climate change; and

(i) to promote a Tasmanian response to climate change issues that is as far as practicable consistent with national and international schemes addressing those issues, including any schemes for emissions trading and emissions reporting; and

(j) to enhance Tasmania's willingness and capacity to contribute and respond, constructively and expeditiously, to national and international developments in climate change issues.

PART 2 - Climate Change Action

Division 1 - Target

5. The State's 2050 target

The State's 2050 target under this Act is to reduce, by 31 December 2050, greenhouse gas emissions in Tasmania to at least 60% below 1990 levels.

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) prescribe the method for measuring greenhouse gas emissions for the purposes of setting relevant 1990 levels (the "baseline") and prescribe a figure that represents the baseline; and

(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) actions taken since 1990 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:
(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 –

(a) . . . . . . .
(b) relevant business, scientific, environment and community bodies.

(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) The Minister is to ensure that the first review under this section is carried out, and that a copy of the report on the outcome of that review is tabled in Parliament, by 31 December 2012.

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

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