Chapter 2
Overview of the bill

2.1 This chapter provides an overview of key aspects of the bill.

Introduction

2.2 The Carbon Farming Initiative Amendment Bill 2014 (the bill) amends the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the CFI Act) and makes minor amendments to related Acts[1] to allow for the establishment of the Emissions Reduction Fund. Specifically, the bill proposes to amend the CFI Act to 'implement the crediting and purchasing components of the Emissions Reduction Fund'.[2] The bill also proposes to expand the Carbon Farming Initiative to make it accessible to emissions reduction activities across the economy, not just land-based projects. It proposes to empower the Clean Energy Regulator (the Regulator) to hold auctions, enter into contracts and buy emissions reductions. The bill also proposes to streamline current processes and provide for the transition of existing participants under the Carbon Farming Initiative.

Emissions Reduction Fund

2.3 According to the Explanatory Memorandum, the Emissions Reduction Fund will commence operations following the repeal of the carbon tax.[3] The 2014–15 budget allocation for the fund is $2.55 billion.[4] The Clean Energy Regulator will be able to 'commit under contract the full level of funding from the commencement of the Fund'.[5]

2.4 The three elements of the Emissions Reduction Fund are:

- credit emissions reductions;
- purchase emissions reductions; and
- safeguard emissions reductions.[6]

Crediting emissions reductions

2.5 The bill empowers the Clean Energy Regulator to allocate Australian carbon credit units (ACCUs) to eligible carbon abatement projects across a broader range

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1 Specifically, the *National Greenhouse and Energy Reporting Act 2007*, the *Australian National Registry of Emissions Act 2011* and the *Clean Energy Regulator Act 2011*.

2 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 11.

3 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 5. Note, however, that the commencement provisions of the bill do not appear to be contingent upon the repeal of the carbon tax legislation.

4 See *Committee Hansard*, 1 July 2014, p. 17.

5 Australian Government, *Budget Paper No. 2 2014–15*, pp 102–103.

6 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 6.

than under the existing legislation. The bill proposes to expand the types of projects able to be credited under the Carbon Farming Initiative to any type of project to avoid greenhouse gas emissions, not just land-based projects and certain types of waste projects.[7]

2.6 As it does under the current legislation, the Regulator will issue ACCUs to registered projects for each tonne of carbon dioxide equivalent reduced or stored in the land. ACCUs will be issued once emissions reductions have been estimated using approved methodologies, and, where necessary, independently audited. A project will need to be registered before it can participate in an Emissions Reduction Fund auction or other purchasing process.[8]

Developing methodologies

2.7 As outlined in the previous chapter, the Carbon Farming Initiative uses methodologies to estimate emissions reductions across activities. The bill intends to change the way methodologies are proposed, assessed and made under the Emissions Reduction Fund.[9]

2.8 Under the current framework, methodologies can be proposed by anyone, and a minimum period of 40 days of public consultation follows. The Minister for the Environment can only make a methodology if it has been endorsed by the Domestic Offsets Integrity Committee and complies with, among other requirements, the offsets integrity standards. The offsets integrity standards currently require that emissions reductions be 'measurable, capable of being audited, and estimated on the basis of conservative assumptions'.[10] The offsets integrity standards requirements will remain under the regime proposed by the bill.

2.9 Under the Emissions Reduction Fund the Minister for the Environment would identify priorities for methodology development, following consultation with technical working groups and advice from the renamed 'Emissions Reduction Assurance Committee'.[11] The process for anyone to propose methodologies will be repealed[12] and the 40-day consultation period reduced to 28 days.[13]

2.10 The Explanatory Memorandum states that this streamlined process:

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7 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 24. See also item 143 of Schedule 1 of the bill.

8 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, pp 21 and 55; item 5 of Schedule 1 of the bill.

9 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 35 and see comparison of key changes at pp 36–38.

10 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 42.

11 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, pp 35 and 45.

12 Carbon Farming Initiative Amendment Bill 2014, Schedule 1, items 205, 207, 209 and 211.

13 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 36 and Schedule 1, items 204 and 123A–D.

> …will focus methodology development on opportunities that generate the largest volume of genuine abatement and that are likely to encourage the most participation.[14]

Crediting periods

2.11 Under the Carbon Farming Initiative, projects are approved and registered for a specified 'crediting period', which is the period during which emissions reduction activities are eligible to generate credits.[15] Currently, the standard crediting period is seven years unless a different crediting period is specified through the regulations. The bill proposes a standard seven-year crediting period for emissions reductions projects and 25 years for sequestration projects. The bill also enables different lengths of crediting period to be provided through methodologies.[16]

2.12 The White Paper explained that flexibility is provided by allowing crediting periods of different durations depending on the project:

> …methods can also provide for shorter, three-year crediting periods or longer, 10-year crediting periods in certain circumstances. This recognises that some activities are likely to remain additional to business as usual for significantly shorter or longer periods than the standard seven-year crediting period.
>
> For example, while a seven year crediting period would be provided for a whole-of-building energy efficiency upgrade, a shorter crediting period could be considered for some space heating projects that are likely to become business as usual very quickly.
>
> Conversely, large and ambitious projects with the potential to make a substantial single contribution towards reducing Australia's emissions may require longer crediting periods. These projects could be provided with a 10-year crediting period…[17]

2.13 Currently, after the first crediting period has expired, project proponents can apply for a subsequent crediting period. The bill proposes to remove the ability for projects to have more than one crediting period.[18] The Explanatory Memorandum states that this will 'ensure that the Emissions Reduction Fund continues to target new projects that build on previous gains'.[19]

Additionality

2.14 To be eligible to receive credits under the current legislation, a project must undergo an 'additionality' test. The Explanatory Memorandum defines 'additionality'

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14 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 35.

15 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 32.

16 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 32.

17 Australian Government, *Emissions Reduction Fund White Paper*, April 2014, p. 33.

18 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 33 and Schedule 1, item 152.

19 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 33.

as a requirement that a project or activity produce emissions reductions that are most likely to be additional to what would have occurred in the absence of the Emissions Reduction Fund. The current test requires a project to go beyond common practice and be listed on the 'positive list' under the CFI Regulations. The project must also not be required by another law. The bill proposes to repeal the existing additionality 'common practice' test and the associated separate 'positive list' process. It will be replaced with new project eligibility requirements and an express definition of additionality in the offsets integrity standards, which require that a methodology must result in carbon abatement that is unlikely to occur in the ordinary course of events.[20] The concept of 'common practice' remains a useful way to determine whether an activity is additional and is likely to be incorporated in the context of methodology development and assessment.[21]

2.15 Under the proposed project eligibility requirements, the bill introduces a new requirement that projects likely to occur because of funding from another Commonwealth or state government program will not be eligible to receive support from the Emissions Reduction Fund. This does not preclude projects from receiving other types of funding or support:

> It is not the Government's intention to prevent proponents from obtaining funding or in-kind support from multiple sources where this is necessary for the project. For example, the Government anticipates that environmental projects could receive assistance from the Green Army and fire management projects may involve rangers involved in Indigenous ranger programmes.[22]

Purchasing emissions reductions

2.16 The bill authorises the Clean Energy Regulator to buy emissions reductions on behalf of the Commonwealth. The ability to purchase emissions reductions, enter into contracts and enforce contract provisions is a new responsibility for the Regulator. Purchasing will generally be done through reverse auctions to obtain emissions reductions at the lowest cost, although the Regulator will also have discretion to purchase emissions reductions through other processes such as tendering.[23] As noted earlier, a project must be registered in order to be included in an auction or other purchasing process.

2.17 The Regulator will design the purchasing process:

> The Regulator's discretion will be bound by principles outlined in the legislation. The principles require the Regulator to, among other matters, design the purchasing process to deliver value for money, maximise

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20 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, pp 30, 42 and Schedule 1, items 25, 107 and 223 of the bill.

21 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 30.

22 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 31.

23 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 53.

abatement, minimise administrative costs and ensure the integrity of the purchasing process.[24]

2.18 On 27 June 2014, the Clean Energy Regulator released for public consultation an exposure draft of the Carbon Abatement Contract to be used for the Emissions Reduction Fund and an accompanying discussion paper. Submissions are due by 18 July 2014.[25]

Safeguarding emissions reductions

2.19 An Emissions Reduction Fund safeguard mechanism will be operational from 1 July 2015. Consultation on the design of the mechanism will continue to occur through 2014 and the first half of 2015. The mechanism will be put in place to ensure that 'emissions reductions paid for by the Emissions Reduction Fund are not displaced by a significant rise in emissions elsewhere in the economy'. It will be implemented through discrete legislation.[26]

Other changes to the Carbon Farming Initiative

2.20 As outlined in the previous chapter, the Carbon Farming Initiative currently applies only to land-based emissions reduction projects and particular waste projects. The bill opens up the initiative to all sectors of the economy, whether on land, at sea or in Australia's external territories. The Explanatory Memorandum lists some of the new projects to reduce emissions which could be supported by the Emissions Reduction Fund, such as improving the energy efficiency of homes and industrial facilities, reducing electricity generator emissions, reducing waste coalmine gas, upgrading vehicles and improving transport logistics.[27]

2.21 The bill alters the permanence arrangements for carbon sequestration projects. Under the existing legislation, sequestration projects must continue for 100 years. If a project does not fulfil this obligation, its carbon credits are relinquished. The bill permits new sequestration projects to nominate for a 25-year or 100-year permanence period. Projects that are currently subject to a 100-year permanence period can elect to convert to a 25-year period within two years of the commencement of the Emissions Reduction Fund. Information about a project's permanence period will be available through the Emissions Reduction Fund Register, which will assist both prospective buyers of land where sequestration projects are operating and buyers of credits from sequestration projects.[28]

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24 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 54.

25 Clean Energy Regulator, *News and Updates*, http://www.cleanenergyregulator.gov.au/About-us/news-and-updates/Pages/default.aspx (accessed 3 July 2014).

26 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 7.

27 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, pp 5–6; see also The Hon Greg Hunt, Minister for the Environment, *House of Representatives Hansard*, 18 June 2014, p. 12.

28 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, pp 66–67.

2.22 The bill proposes to change the timing of requirements relating to obtaining consent from 'eligible interest holders'. Currently, consent is required during the application stage for projects. The bill proposes that proponents of carbon sequestration projects may apply to receive conditional registration for their projects, prior to obtaining the consent of all parties with an eligible interest holding. This allows project proponents to simultaneously begin the process of registration a project and contacting the relevant eligible interest holders. Full registration of a project will not be granted until eligible interest holders have given their consent.[29]

Transitional arrangements for existing Carbon Farming Initiative projects

2.23 Projects that are already registered under the Carbon Farming Initiative will be automatically registered under the Emissions Reduction Fund. Carbon Farming Initiative methodologies will also continue to apply unless varied or revoked.[30] Until 1 July 2015, proponents will be able to apply to register their projects using the eligibility rules and assessment methodologies that existed prior to the commencement of the bill.[31]

2.24 Projects transitioning from the current Carbon Farming Initiative arrangements to the Emission Reduction Fund will receive a second crediting period—that is, their current crediting period will end and a new crediting period will begin the day after the commencement of the Emissions Reduction Fund legislation. The second crediting period will be seven years for emissions reduction projects or 25 years for sequestration projects.[32] The bill proposes that a transitioning project cannot have more than two crediting periods.[33]

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29 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 27.

30 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 61 and Schedule 1, items 388 and 392.

31 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 62 and Schedule 1, items 388 and 392.

32 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, pp 61–63; see also Schedule 1, item 152 (proposed section 70).

33 Carbon Farming Initiative Amendment Bill 2014, *Explanatory Memorandum*, p. 33 and Schedule 1, item 152 (proposed subsection 70(5).