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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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MONDAY, 30 NOVEMBER 2009

TUESDAY, 1 DECEMBER 2009

AND

WEDNESDAY, 2 DECEMBER 2009

**Contents**

1	Meeting of Senate .....	2954
2	Hours of Meeting and Routine of Business—Variation .....	2954
3	Education, Employment and Workplace Relations References Committee— Leave to Meet During Sitting .....	2955
4	Selection of Bills—Standing Committee—Report No. 19 of 2009 .....	2955
5	Agricultural and Related Industries—Select Committee—Interim Reports— Food Production in Australia .....	2956
6	Government Document .....	2956
7	Higher Education Legislation Amendment (Student Services and Amenities) Bill 2009 Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009 [No. 2] Statute Law Revision Bill 2009 .....	2957
8	Committee Membership .....	2957
9	Rural and Regional Affairs and Transport References Committee—Interim Report—Import Restrictions on Beef .....	2957

10	Carbon Pollution Reduction Scheme Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 [No. 2] Australian Climate Change Regulatory Authority Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Customs) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Excise) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—General) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2] Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2] .....	2958
11	Prayers .....	2983
12	Regional and Remote Indigenous Communities—Select Committee— Document—Third Report .....	2983
13	Documents.....	2983
14	Leave of Absence.....	2986
15	Carbon Pollution Reduction Scheme Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 [No. 2] Australian Climate Change Regulatory Authority Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Customs) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Excise) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—General) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2] Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2] .....	2987
16	Prayers .....	3047

17	Carbon Pollution Reduction Scheme Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 [No. 2] Australian Climate Change Regulatory Authority Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Customs) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Excise) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—General) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2] Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2] .....	3047
18	Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2] .....	3048
19	Routine of Business—Variation .....	3049
20	Appropriation (Water Entitlements and Home Insulation) Bill 2009-2010 Appropriation (Water Entitlements) Bill 2009-2010 .....	3049
21	Notice .....	3049
22	Fair Work Amendment (State Referrals and Other Measures) Bill 2009 .....	3050
23	Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009 Income Tax (TFN Withholding Tax (ESS)) Bill 2009 .....	3050
24	Committee Membership .....	3050
25	Bankruptcy Legislation Amendment Bill 2009 Health Insurance Amendment (New Zealand Overseas Trained Doctors) Bill 2009 Trade Practices Amendment (Infrastructure Access) Bill 2009 .....	3050
26	Next Meeting of Senate .....	3051
27	Leave of Absence .....	3051
28	End of 2009 Sittings—Statement by President .....	3051
29	Adjournment .....	3051
30	Attendance .....	3051

**1 MEETING OF SENATE**

The Senate met at 10 am. The President (Senator the Honourable John Hogg) took the chair and read prayers.

**2 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION**

Senator Milne, by leave, moved—That, on each calendar day from Monday, 30 November 2009 until the Senate has finally dealt with the Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and 10 related bills:

- (a) the hours of meeting shall be 10 am to 6.30 pm and 7.30 pm to 10 pm and if the Senate is still sitting at 10 pm, the sitting of the Senate be suspended till 10 am the following day; and
- (b) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and 10 related bills, including any messages from the House of Representatives.

Senator Parry moved the following amendments together by leave:

No. 1—Omit “on each calendar day from”, substitute “today,”.

No. 2—Paragraph (a), before “6.30 pm”, insert “12.30 pm, 1.30 pm to”.

The Leader of the Family First Party (Senator Fielding) moved the following amendments to Senator Parry’s proposed amendments together by leave:

Amendment no. 1, after “Monday, 30 November 2009”, insert “until Friday, 4 December 2009”; and after “finally dealt with the”, insert “committee stages of the”.

Add:

- ; and (c) the third reading of the Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and 10 related bills not be put until the third sitting day in February 2010.

Debate ensued.

Question—That Senator Fielding’s amendments to Senator Parry’s proposed amendments be agreed to—put and negatived.

The question was divided—

Question—That amendment no. 1 be agreed to—put and negatived.

Question—That amendment no. 2 be agreed to—put and passed.

Main question, as amended, put.

The Senate divided—

**AYES, 43**

Senators—

Abetz	Cash	Heffernan	Nash
Adams	Colbeck	Humphries	Parry
Back	Coonan	Johnston	Payne
Barnett	Cormann	Joyce	Ronaldson
Bernardi	Eggleston	Kroger	Ryan
Birmingham	Ferguson	Ludlam	Siewert
Boswell	Fielding	Macdonald	Troeth
Boyce	Fierravanti-Wells	Mason	Trood
Brandis	Fifield	McGauran	Williams (Teller)
Brown, Bob	Fisher	Milne	Xenophon
Bushby	Hanson-Young	Minchin	

## NOES, 32

Senators—			
Arbib	Crossin	Hurley	O'Brien (Teller)
Bilyk	Evans	Hutchins	Polley
Bishop	Farrell	Ludwig	Pratt
Brown, Carol	Faulkner	Lundy	Sherry
Cameron	Feeney	Marshall	Stephens
Carr	Forshaw	McEwen	Sterle
Collins	Furner	McLucas	Wong
Conroy	Hogg	Moore	Wortley

Question agreed to.

3 **EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Parry, by leave and at the request of the Chair of the Education, Employment and Workplace Relations References Committee (Senator Humphries), moved—That the Education, Employment and Workplace Relations References Committee be authorised to hold a public meeting during the sitting of the Senate today, from 2 pm, to take evidence for the committee's inquiry into the Primary Schools for the 21st Century program.

Question put and passed.

4 **SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 19 OF 2009**

The Chair of the Selection of Bills Committee (Senator O'Brien), by leave, tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 19 OF 2009

1. The committee met in private session on Friday, 27 November 2009 at 12.08 pm.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the Do Not Call Register Legislation Amendment Bill 2009 be *referred immediately* to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 24 February 2010;
  - (b) the *provisions* of the Freedom of Information Amendment (Reform) Bill 2009 and the Information Commissioner Bill 2009 be *referred immediately* to the Finance and Public Administration Legislation Committee for inquiry and report by 16 March 2010;
  - (c) the *provisions* of the Occupational Health and Safety and Other Legislation Amendment Bill 2009 be *referred immediately* to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 25 February 2010; and
  - (d) the Trade Practices Amendment (Material Lessening of Competition—Richmond Amendment) Bill 2009 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 18 March 2010.

3. The committee resolved to recommend—That the following bills *not* be referred to committees:
- Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2009
  - Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009 [No. 2]
  - Trans-Tasman Proceedings Bill 2009
  - Trans-Tasman Proceedings (Transitional and Consequential Provisions) Bill 2009.

*The committee recommends accordingly.*

4. The committee deferred consideration of the following bills to its next meeting:
- Britt Laphorne Bill 2009
  - Fisheries Legislation Amendment Bill 2009
  - Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2009
  - Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009
  - Therapeutic Goods Amendment (2009 Measures No. 3) Bill 2009
  - Therapeutic Goods (Charges) Amendment Bill 2009.

Kerry O'Brien  
Chair  
30 November 2009.

Senator O'Brien moved—That the report be adopted.

Question put and passed.

**5 AGRICULTURAL AND RELATED INDUSTRIES—SELECT COMMITTEE—INTERIM REPORTS—FOOD PRODUCTION IN AUSTRALIA**

The President tabled the following reports received on 27 November 2009:

Agricultural and Related Industries—Select Committee—Food production in Australia—

Second interim report, dated November 2009.

Third interim report, dated November 2009.

Reports ordered to be printed on the motion of Senator O'Brien.

Senator O'Brien, by leave, moved—That the Senate take note of the reports.

Debate adjourned till the next day of sitting, Senator O'Brien in continuation.

**6 GOVERNMENT DOCUMENT**

The President tabled the following document received on 27 November 2009:

Mid-year economic and fiscal outlook—2009-10—Statement by the Treasurer (Mr Swan) and the Minister for Finance and Deregulation (Mr Tanner).

**7 HIGHER EDUCATION LEGISLATION AMENDMENT (STUDENT SERVICES AND AMENITIES) BILL 2009  
SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT FOR STUDENTS) BILL 2009 [No. 2]  
STATUTE LAW REVISION BILL 2009**

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 476, dated 26 November 2009—A Bill for an Act to amend legislation relating to higher education, and for related purposes.

Message no. 474, dated 26 November 2009—A Bill for an Act to amend the law relating to social security, veterans' affairs and higher education, and for related purposes.

Message no. 475, dated 26 November 2009—A Bill for an Act to make various amendments of the statute law of the Commonwealth, to repeal certain obsolete Acts, and for related purposes.

The Special Minister of State (Senator Ludwig) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ludwig moved—That these bills be now read a second time.

*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Ludwig moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

**8 COMMITTEE MEMBERSHIP**

The President informed the Senate that he had received a letter requesting changes in the membership of a committee.

The Special Minister of State (Senator Ludwig), by leave, moved—That Senator Siewert replace Senator Hanson-Young on the Education, Employment and Workplace Relations Legislation Committee for the committee's inquiry into the provisions of the Occupational Health and Safety and Other Legislation Amendment Bill 2009, and Senator Hanson-Young be appointed as a participating member.

Question put and passed.

**9 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—  
INTERIM REPORT—IMPORT RESTRICTIONS ON BEEF**

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Nash) tabled the following report:

Rural and Regional Affairs and Transport References Committee—Import restrictions on beef—Interim report, dated 30 November 2009.

*Reporting date:* Senator Nash, by leave, moved—That the final report of the Rural and Regional Affairs and Transport References Committee on the import restrictions on beef be presented by 25 February 2010.

Question put and passed.

- 10 **CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CONSEQUENTIAL AMENDMENTS)**  
**BILL 2009 [No. 2]**  
**AUSTRALIAN CLIMATE CHANGE REGULATORY AUTHORITY BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CHARGES—CUSTOMS)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CHARGES—EXCISE)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CHARGES—GENERAL)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)**  
**(CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]**  
**EXCISE TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)**  
**BILL 2009 [No. 2]**  
**CUSTOMS TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD**  
**ASSISTANCE) BILL 2009 [No. 2]**

Order of the day read for the further consideration of the bills in committee of the whole.

—————  
*In the committee*

**CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]—**

Consideration resumed of the bill, as amended—*and of the amendments moved by the Minister for Climate Change and Water (Senator Wong):*

Clause 5, page 5 (after line 16), after the definition of *alter*, insert:

*applicable domestic offsets methodology determination*, in relation to an offsets project, means the domestic offsets methodology determination that is applicable to the project.

Clause 5, page 10 (after line 34), after the definition of *director*, insert:

*Domestic Offsets Integrity Committee* means the committee established by section 373A.

*Domestic Offsets Integrity Committee member* means a member of the Domestic Offsets Integrity Committee, and includes the Chair of the Domestic Offsets Integrity Committee.

*domestic offsets program* means the program under subsection 259B(1).

*domestic offsets project methodology determination* means a determination under subsection 259J(1).

*domestic offsets project methodology principles* has the meaning given by section 259K.

*domestic offsets reporting period* has the meaning given by subsection 259C(2).



Clause 5, page 11 (before line 5), before the definition of *eligible emissions unit*, insert:

*eligible domestic offsets project* means an offsets project that, under the domestic offsets program, has been declared by the Authority to be an eligible domestic offsets project.

Clause 5, page 21 (before line 1), before the definition of *net source cancellation account*, insert:

*native forest* has the meaning given by the regulations.

Clause 5, page 21 (after line 25), after the definition of *official of the Authority*, insert:

*offsets project* means:

- (a) a project to remove one or more greenhouse gases from the atmosphere; or
- (b) a project to reduce emissions of one or more greenhouse gases.

For this purpose, it is immaterial whether the project has been carried out.

Clause 5, page 24 (line 5), omit “256.”, substitute “256; and”.

Clause 5, page 24 (after line 5), at the end of the definition of *recognised*, add:

- (c) *recognised* as an offsets entity means recognised under section 259P.

Clause 5, page 24 (before line 6), before the definition of *recognised reforestation entity*, insert:

*recognised offsets entity* means a person recognised as an offsets entity.

Clause 5, page 28 (lines 22 and 23), omit the definition of *vacancy*, substitute:

*vacancy*:

- (a) in relation to the office of an expert advisory committee member—has a meaning affected by section 7; or
- (b) in relation to the office of a Domestic Offsets Integrity Committee member—has a meaning affected by section 7A.

Page 30 (after line 9), after clause 7, insert:

**7A Vacancy in the office of a Domestic Offsets Integrity Committee member**

For the purposes of a reference in:

- (a) this Act to a *vacancy* in the office of a Domestic Offsets Integrity Committee member; or
- (b) the *Acts Interpretation Act 1901* to a *vacancy* in the membership of a body;

there are taken to be 4 offices of member of the Domestic Offsets Integrity Committee in addition to the Chair of the Domestic Offsets Integrity Committee.

Clause 88, page 131 (line 21), omit “greenhouse gases).”, substitute “greenhouse gases); or”.

Clause 88, page 131 (after line 21), at the end of the clause, add:

- (g) in accordance with the domestic offsets program.

Clause 101, page 142 (line 3), omit “and”, substitute “or”.

Clause 101, page 142 (after line 3), at the end of paragraph (1)(a), add:

(v) in accordance with the domestic offsets program; and

Page 343 (after line 14), after Part 11, insert:

## **Part 11A—Domestic offsets program**

### **Division 1—Introduction**

#### **259A Simplified outline**

The following is a simplified outline of this Part:

- The regulations may formulate a program (to be known as the *domestic offsets program*) for the issue of free Australian emissions units in respect of eligible domestic offsets projects.
- Free units will be issued to the project proponent of the eligible domestic offsets project, so long as the project proponent is recognised as an offsets entity by the Authority.
- Eligible domestic offsets projects must be:
  - (a) covered by a domestic offsets project methodology determination; and
  - (b) carried on in Australia.
- A domestic offsets project methodology determination must not be inconsistent with the domestic offsets project methodology principles.

### **Division 2—Formulation of the domestic offsets program**

#### **259B Formulation of the domestic offsets program**

- (1) The regulations may formulate a program (to be known as the *domestic offsets program*) for the issue of free Australian emissions units in respect of offsets projects that, under the program, have been declared by the Authority to be eligible domestic offsets projects.

##### *Issue of free Australian emissions units*

- (2) The domestic offsets program must provide that free Australian emissions units must not be issued to a person in accordance with the program unless the person:
  - (a) meets such requirements as are specified in the program; and
  - (b) is a recognised offsets entity; and
  - (c) has a Registry account.

- (3) The domestic offsets program must provide that the method of calculating the number of free Australian emissions units to be issued to a person in accordance with the program in respect of an eligible domestic offsets project is to be ascertained in accordance with the applicable domestic offsets project methodology determination.

##### *Criteria for declaration of eligible domestic offsets project*

- (4) The domestic offsets program must provide that the Authority must not declare that an offsets project is an eligible domestic offsets project unless the Authority is satisfied that:
  - (a) the project:
    - (i) is, or is to be, carried on in Australia; and

- (ii) is covered by a domestic offsets project methodology determination; and
- (iii) meets such requirements as are set out in the applicable domestic offsets project methodology determination in accordance with paragraph 259J(1)(b); and
- (iv) meets such other requirements (if any) as are specified in the program; and
- (v) does not involve the clearing or harvesting of native forest; and
- (vi) does not involve using material obtained as a result of the clearing or harvesting of native forest; and
- (b) the person who, under the domestic offsets program, is taken to be the project proponent of the project is a recognised offsets entity.

Note: Domestic offsets project methodology determinations are made under section 259J.

- (5) The domestic offsets program must provide that the Authority must not declare that an offsets project is an eligible domestic offsets project unless an application for the declaration is made on or after 1 July 2011.

*Duration of declaration etc.*

- (6) The domestic offsets program must provide that a declaration of an offsets project as an eligible domestic offsets project takes effect:
  - (a) immediately after it is made; or
  - (b) if:
    - (i) an earlier day is specified in the declaration; and
    - (ii) the applicant for the declaration has consented to the specification of the earlier day; and
    - (iii) the earlier day is not before 1 July 2011; on the day specified.
- (7) The domestic offsets program must provide that a declaration of an offsets project as an eligible domestic offsets project remains in force until the end of the period ascertained in accordance with the program, unless revoked sooner by the Authority.
- (8) The domestic offsets program may provide that, if a declaration (the **renewal declaration**) of an offsets project as an eligible domestic offsets project is made by way of the renewal of the previous declaration of the project, the renewal declaration takes effect immediately after the expiry of the previous declaration.

*Revocation of declaration*

- (9) The domestic offsets program must provide that a declaration of an offsets project as an eligible domestic offsets project may be revoked by the Authority if the Authority is satisfied that:
  - (a) the project:
    - (i) is not being, or will not be, carried on in Australia; or
    - (ii) is not covered by a domestic offsets project methodology determination; or

- (iii) does not meet any or all of the requirements set out in the applicable domestic offsets project methodology determination in accordance with paragraph 259J(1)(b); or
  - (iv) does not meet any or all of the requirements specified in the program; or
- (b) the person who, under the domestic offsets program, is taken to be the project proponent of the project is not a recognised offsets entity.

*Declaration is not legislative instrument etc.*

- (10) A declaration of an offsets project as an eligible domestic offsets project is not a legislative instrument.
- (11) A revocation of such a declaration is not a legislative instrument.

#### **259C Reporting requirement**

*Scope*

- (1) This section applies if, under the domestic offsets program, a person is taken to be the project proponent of an eligible domestic offsets project.

*Requirement*

- (2) The domestic offsets program may make provision for and in relation to requiring the person to give a written report to the Authority in relation to the project in respect of a period (a **domestic offsets reporting period**) ascertained in accordance with the program.
- (3) A domestic offsets reporting period:
  - (a) may be a recurring period (for example, a financial year); and
  - (b) must not be shorter than 12 months.
- (4) The domestic offsets program must provide that a report given by the person as mentioned in subsection (2) must be accompanied by a prescribed audit report prepared by another person ascertained in accordance with the program.

#### **259D Record-keeping requirement**

*Scope*

- (1) This section applies if, under the domestic offsets program, a person is taken to be the project proponent of an eligible domestic offsets project.

*Requirement*

- (2) The domestic offsets program may make provision for and in relation to requiring the person to:
  - (a) make records of information specified in the program; and
  - (b) retain such a record, or a copy, for 5 years after the record was made.

#### **259E Relinquishment requirement**

- (1) The domestic offsets program may provide that, if:
  - (a) a number of free Australian emissions units have been issued in respect of an eligible domestic offsets project in accordance with the program; and

- (b) the application for the declaration of the project as an eligible domestic offsets project contained information that was false or misleading in a material particular; and
- (c) the issue of any or all of the units was directly or indirectly attributable to the false or misleading information;

the person who, under the program, is taken to be the project proponent of the project is required to relinquish a number of Australian emissions units ascertained in accordance with the program. The number of Australian emissions units required to be relinquished must not exceed the number of Australian emissions units the issue of which was directly or indirectly attributable to the false or misleading information.

Note: An administrative penalty is payable under section 287 for non-compliance with a relinquishment requirement under the domestic offsets program.

- (2) The domestic offsets program may provide that, if:
  - (a) a number of free Australian emissions units have been issued in respect of an eligible domestic offsets project in accordance with the program; and
  - (b) the person who, under the program, is taken to be the project proponent of the project has given the Authority a report as mentioned in subsection 259C(2); and
  - (c) the report contains information that is false or misleading in a material particular; and
  - (d) the issue of any or all of the units was directly or indirectly attributable to the false or misleading information;

the person is required to relinquish a number of Australian emissions units ascertained in accordance with the program. The number of Australian emissions units required to be relinquished must not exceed the number of Australian emissions units the issue of which was directly or indirectly attributable to the false or misleading information.

Note: An administrative penalty is payable under section 287 for non-compliance with a relinquishment requirement under the domestic offsets program.

- (3) The domestic offsets program may provide that, if:
  - (a) a number of free Australian emissions units have been issued in respect of an eligible domestic offsets project in accordance with the program; and
  - (b) the project involves the removal of one or more greenhouse gases from the atmosphere; and
  - (c) there has been a complete or partial reversal of that removal;

the person who, under the program, is taken to be the project proponent of the project is required to relinquish a number of Australian emissions units ascertained in accordance with the program. The number of Australian emissions units required to be relinquished must not exceed the total number of Australian emissions units that, under the domestic offsets program, is taken to be the number of units attributable to that removal.

Note: An administrative penalty is payable under section 287 for non-compliance with a relinquishment requirement under the domestic offsets program.

- (4) The domestic offsets program may provide that, if:
- (a) a number of free Australian emissions units have been issued in respect of an eligible domestic offsets project in accordance with the program; and
  - (b) if:
    - (i) the project is a project to reduce emissions of one or more greenhouse gases; and
    - (ii) the reduction involves storage; and
  - (c) there has been a complete or partial reversal of that storage;

the person who, under the program, is taken to be the project proponent of the project is required to relinquish a number of Australian emissions units ascertained in accordance with the program. The number of Australian emissions units required to be relinquished must not exceed the total number of Australian emissions units that, under the domestic offsets program, is taken to be the number of units attributable to that reduction.

Note: An administrative penalty is payable under section 287 for non-compliance with a relinquishment requirement under the domestic offsets program.

## **259F Other matters**

### *Declaration of eligible domestic offsets project*

- (1) The domestic offsets program may make provision for and in relation to the following matters:
  - (a) applications for offsets projects to be declared to be eligible domestic offsets projects;
  - (b) the approval by the Authority of a form for such an application;
  - (c) the fee (if any) that must accompany such an application;
  - (d) information that must accompany such an application;
  - (e) documents that must accompany such an application.
- (2) The domestic offsets program may provide for verification by statutory declaration of statements in applications for offsets projects to be declared to be eligible domestic offsets projects.
- (3) The domestic offsets program may provide that an application for an offsets project to be declared to be an eligible domestic offsets project must be accompanied by a prescribed report.

### *Applications for free Australian emissions units*

- (4) The domestic offsets program may make provision for and in relation to the following matters:
  - (a) applications for free Australian emissions units;
  - (b) the approval by the Authority of a form for such an application;
  - (c) information that must accompany such an application;
  - (d) documents that must accompany such an application.
- (5) The domestic offsets program may provide for verification by statutory declaration of statements in applications for free Australian emissions units.

**259G Ancillary or incidental provisions**

The domestic offsets program may contain ancillary or incidental provisions.

**Division 3—Compliance with reporting and record-keeping requirements under the domestic offsets program****259H Compliance with reporting and record-keeping requirements***Reporting requirements*

- (1) If a person is subject to a requirement under the domestic offsets program to give a report to the Authority, the person must comply with that requirement.

*Record-keeping requirements*

- (2) If a person is subject to a requirement under the domestic offsets program to:
- (a) make a record of information; or
  - (b) retain such a record or a copy;
- the person must comply with that requirement.

*Ancillary contraventions*

- (3) A person must not:
- (a) aid, abet, counsel or procure a contravention of subsection (1) or (2); or
  - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1) or (2); or
  - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1) or (2); or
  - (d) conspire with others to effect a contravention of subsection (1) or (2).

*Civil penalty provisions*

- (4) Subsections (1), (2) and (3) are *civil penalty provisions*.

Note: Part 21 provides for pecuniary penalties for breaches of civil penalty provisions.

**Division 4—Domestic offsets project methodology determinations****259J Domestic offsets project methodology determinations**

- (1) The Minister may, by legislative instrument, make a determination, to be known as a *domestic offsets project methodology determination*, that:
- (a) is expressed to apply to a specified kind of offsets project; and
  - (b) sets out requirements that must be met for such a project to be an eligible domestic offsets project; and
  - (c) provides that, if such a project is an eligible domestic offsets project, the number of free Australian emissions units to be issued to a person in accordance with the domestic offsets program in respect of the project for a domestic offsets reporting period must equal:

- (i) if the project relates to the removal of one or more greenhouse gases—the net total number of tonnes of greenhouse gases that, under the determination, is taken to be removed as a result of the project during the domestic offsets reporting period; or
  - (ii) if the project relates to the reduction of emissions of one or more greenhouse gases—the net total number of tonnes of greenhouse gases that, under the determination, is taken to be reduced as a result of the project during the domestic offsets reporting period.
- (2) The Minister must not make or amend a domestic offsets project methodology determination unless the Minister does so in accordance with advice given to the Minister by the Domestic Offsets Integrity Committee.
- Note: The Domestic Offsets Integrity Committee is established by section 373A.
- (3) To avoid doubt, the Minister may revoke a domestic offsets project methodology determination without obtaining advice from the Domestic Offsets Integrity Committee.
- (4) A domestic offsets project methodology determination must not be inconsistent with the domestic offsets project methodology principles.

**259K Domestic offsets project methodology principles**

- (1) For the purposes of the application of this Act to an offsets project, the *domestic offsets project methodology principles* are as follows:
- (a) if the project is a project to remove one or more greenhouse gases from the atmosphere—the removal can be used to meet Australia's climate change targets under:
    - (i) the Kyoto Protocol; or
    - (ii) an international agreement (if any) that is the successor (whether immediate or otherwise) to the Kyoto Protocol;
  - (b) if the project is a project to reduce emissions of one or more greenhouse gases—the reduction can be used to meet Australia's climate change targets under:
    - (i) the Kyoto Protocol; or
    - (ii) an international agreement (if any) that is the successor (whether immediate or otherwise) to the Kyoto Protocol;
  - (c) the project meets the integrity requirements set out in subsection (2);
  - (d) if the project is a project to reduce emissions of one or more greenhouse gases—the project is not a project to reduce an emission that, under regulations made for the purposes of paragraph 10(2A)(a) of the *National Greenhouse and Energy Reporting Act 2007*, is a scope 1 emission covered by the carbon pollution reduction scheme;
  - (e) the project is not a reforestation project that has resulted, or has the potential to result, in the issue of free Australian emissions units in accordance with Part 10;



- (f) the project does not involve:
  - (i) the destruction of one or more synthetic greenhouse gases; or
  - (ii) the reduction of emissions of one or more synthetic greenhouse gases.

*Integrity requirements*

- (2) The integrity requirements mentioned in paragraph (1)(c) are as follows:
  - (a) if the project is a project to remove one or more greenhouse gases from the atmosphere—the removal is:
    - (i) measurable; and
    - (ii) capable of being verified;
  - (b) if the project is a project to reduce emissions of one or more greenhouse gases—the reduction is:
    - (i) measurable; and
    - (ii) capable of being verified;
  - (c) the project would not have been proposed or carried out in the absence of the issue of free Australian emissions units in accordance with the domestic offsets program;
  - (d) if the project is a project to remove one or more greenhouse gases from the atmosphere—the removal is not likely to be reversed in whole or in part;
  - (e) if:
    - (i) the project is a project to reduce emissions of one or more greenhouse gases; and
    - (ii) the reduction involves storage;  
the storage is not likely to be reversed in whole or in part;
  - (f) if the project is a project to remove one or more greenhouse gases from the atmosphere—the removal is not offset by emissions of one or more greenhouse gases outside the project;
  - (g) if the project is a project to reduce emissions of one or more greenhouse gases—the reduction is not offset by emissions of one or more greenhouse gases outside the project;
  - (h) such other requirements (if any) as are specified in the regulations.

*Landfill facilities*

- (3) Paragraph (1)(d) does not apply to a project to reduce the following emissions:
  - (a) emissions that, under subsection 20(6) or (8), do not count for the purposes of subsection 20(1) (which deals with landfill facilities);
  - (b) emissions that, under subsection 21(6) or (8), do not count for the purposes of subsection 21(1) (which deals with landfill facilities);
  - (c) emissions that, under subsection 22(6) or (7), do not count for the purposes of subsection 22(1) (which deals with landfill facilities).

**Division 5—Recognised offsets entities****259L Application for recognition as an offsets entity**

- (1) A person may apply to the Authority for recognition as an offsets entity.
- (2) A person is not entitled to make an application before 1 July 2011.

**259M Form of application**

- (1) An application must:
  - (a) be in writing; and
  - (b) be in a form approved, in writing, by the Authority; and
  - (c) be accompanied by such information as is specified in the regulations; and
  - (d) be accompanied by such documents (if any) as are specified in the regulations; and
  - (e) be accompanied by the fee (if any) specified in the regulations.
- (2) The approved form of application may provide for verification by statutory declaration of statements in applications.
- (3) A fee specified under paragraph (1)(e) must not be such as to amount to taxation.

**259N Further information**

- (1) The Authority may, by written notice given to an applicant, require the applicant to give the Authority, within the period specified in the notice, further information in connection with the application.
- (2) If the applicant breaches the requirement, the Authority may, by written notice given to the applicant:
  - (a) refuse to consider the application; or
  - (b) refuse to take any action, or any further action, in relation to the application.

**259P Recognition as an offsets entity***Scope*

- (1) This section applies if an application under section 259L has been made for recognition as an offsets entity.

*Recognition*

- (2) After considering the application, the Authority may, by written notice given to the applicant, recognise the applicant as an offsets entity.

*Criteria for recognition*

- (3) The Authority must not recognise the applicant as an offsets entity unless:
  - (a) the Authority is satisfied that the applicant is a fit and proper person, having regard to the following:
    - (i) whether the applicant has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to dishonest conduct;
    - (ii) whether the applicant has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to the conduct of a business;

- (iii) whether the applicant has been convicted of an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
  - (iv) whether an order has been made against the applicant under section 76 of the *Trade Practices Act 1974*;
  - (v) whether the applicant has breached this Act or the associated provisions;
  - (vi) if the applicant is a body corporate—whether an executive officer of the body corporate has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to dishonest conduct;
  - (vii) if the applicant is a body corporate—whether an executive officer of the body corporate has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to the conduct of a business;
  - (viii) if the applicant is a body corporate—whether an executive officer of the body corporate has been convicted of an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
  - (ix) if the applicant is a body corporate—whether an order has been made against an executive officer of the body corporate under section 76 of the *Trade Practices Act 1974*;
  - (x) if the applicant is a body corporate—whether an executive officer of the body corporate has breached this Act or the associated provisions;
  - (xi) such other matters (if any) as the Authority considers relevant; and
- (b) if the applicant is an individual—the Authority is satisfied that the applicant is not an insolvent under administration; and
  - (c) if the applicant is a body corporate—the Authority is satisfied that the applicant is not an externally-administered body corporate; and
  - (d) if the regulations specify one or more other eligibility requirements—the Authority is satisfied that those requirements are met.
- (4) Subparagraphs (3)(a)(i) to (x) do not limit subparagraph (3)(a)(xi).

*Timing*

- (5) The Authority must take all reasonable steps to ensure that a decision is made on the application:
- (a) if the Authority requires the applicant to give further information under subsection 259N(1) in relation to the application—within 90 days after the applicant gave the Authority the information; or
  - (b) otherwise—within 90 days after the application was made.

*Refusal*

- (6) If the Authority decides to refuse to recognise the applicant as an offsets entity, the Authority must give written notice of the decision to the applicant.

**259Q Cancellation of recognition**

- (1) The Authority may cancel the recognition of a person as an offsets entity if:
  - (a) the Authority is satisfied that the person is not a fit and proper person, having regard to the following:
    - (i) whether the person has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to dishonest conduct;
    - (ii) whether the person has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to the conduct of a business;
    - (iii) whether the person has been convicted of an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
    - (iv) whether an order has been made against the person under section 76 of the *Trade Practices Act 1974*;
    - (v) whether the person has breached this Act or the associated provisions;
    - (vi) if the person is a body corporate—whether an executive officer of the body corporate has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to dishonest conduct;
    - (vii) if the person is a body corporate—whether an executive officer of the body corporate has been convicted of an offence against a law of the Commonwealth, a State or Territory, where the offence relates to the conduct of a business;
    - (viii) if the person is a body corporate—whether an executive officer of the body corporate has been convicted of an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
    - (ix) if the person is a body corporate—whether an order has been made against an executive officer of the body corporate under section 76 of the *Trade Practices Act 1974*;
    - (x) if the person is a body corporate—whether an executive officer of the body corporate has breached this Act or the associated provisions;
    - (xi) such other matters (if any) as the Authority considers relevant; or
  - (b) if the person is an individual—the Authority is satisfied that the person is an insolvent under administration; or
  - (c) if the person is a body corporate—the Authority is satisfied that the person is an externally-administered body corporate; or
  - (d) if the regulations specify one or more other grounds for cancellation—the Authority is satisfied that at least one of those grounds is applicable to the person.
- (2) Subparagraphs (1)(a)(i) to (x) do not limit subparagraph (1)(a)(xi).

**259R Surrender of recognition***Scope*

- (1) This section applies if a person is recognised as an offsets entity.

*Surrender*

- (2) The person may, by written notice given to the Authority, surrender the person's recognition.
- (3) The surrender takes effect on the day the notice is received by the Authority or, if a later day is specified in the notice, on that later day.

**259S Recognition is not transferable**

If a person is recognised as an offsets entity, the person's recognition is not transferable.

Clause 273, page 358 (after line 12), at the end of the clause, add:

*Domestic offsets program*

- (5) As soon as practicable after free Australian emissions units are issued to a person in accordance with the domestic offsets program, the Authority must publish on its website:
- (a) the name of the person; and
  - (b) the total number of free Australian emissions units issued to the person; and
  - (c) the vintage year of the free Australian emissions units issued to the person.

Clause 274, page 359 (lines 6 and 7), omit "greenhouse gases).", substitute "greenhouse gases);".

Clause 274, page 359 (after line 7), at the end of the clause, add:

- (g) the total number of free Australian emissions units with a particular vintage year issued during the quarter in accordance with the domestic offsets program.

Page 367 (after line 13), at the end of Part 12, add:

**Division 8—Information about eligible domestic offsets projects****278H Information about eligible domestic offsets projects**

For each eligible domestic offsets project, the Authority must publish on its website:

- (a) a description of the project; and
- (b) the location of the project; and
- (c) the name of the person who applied to the Authority for the declaration of the project as an eligible domestic offsets project; and
- (d) the name of the person who, under the domestic offsets program, is taken to be the project proponent of the project; and
- (e) if any Australian emissions units have been issued in relation to the project in accordance with the domestic offsets program:
  - (i) the total number of units so issued; and
  - (ii) the name of the person, or each of the persons, to whom those units have been issued; and
- (f) the name of the applicable domestic offsets methodology determination; and

(g) such other information (if any) relating to the project as the Authority considers appropriate.

Clause 285, page 375 (lines 17 and 18), omit “or the emissions-intensive trade-exposed assistance program”, substitute “, the emissions-intensive trade-exposed assistance program or the domestic offsets program”.

Clause 286, page 376 (after line 26), after paragraph (2)(da), insert:

(db) if the Australian emissions unit or units are being relinquished in order to comply with a requirement under the domestic offsets program—specify the requirement to which the relinquishment relates; and

Clause 286, page 377 (line 14), at the end of subparagraph (3)(b)(ii), add “or”.

Clause 286, page 377 (after line 14), at the end of paragraph (3)(b), add:

(iii) Part 11A (domestic offsets program);

Clause 286, page 377 (line 26), omit “and”, substitute “or”.

Clause 286, page 377 (after line 26), at the end of paragraph (4)(b), add:

(iii) Part 11A (domestic offsets program); and

Clause 286, page 378 (line 23), at the end of paragraph (6)(ba), add “or”.

Clause 286, page 378 (after line 23), after paragraph (6)(ba), insert:

(bb) an Australian emissions unit is relinquished by a person in order to comply with a requirement under the domestic offsets program;

Clause 337, page 421 (after line 10), after paragraph (1)(qa), insert:

(qb) subsection 259H(1);

(qc) subsection 259H(2);

Clause 338, page 422 (after line 9), after paragraph (2)(da), insert:

(db) subsection 259H(1);

Clause 346, page 432, after table item 48, insert:

48A A prescribed decision under the domestic offsets program.

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48B A decision to refuse to recognise a person as an offsets entity under section 259P.

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48C A decision to cancel a person’s recognition as an offsets entity under section 259Q.

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Clause 353, page 439 (after line 8), after paragraph (1)(h), insert:

(ha) the effectiveness and efficiency of:

(i) the domestic offsets program; and

(ii) any domestic offsets project methodology determinations;

Clause 353, page 439 (after line 11), after subparagraph (1)(i)(i), insert:

(ia) the functions of the Domestic Offsets Integrity Committee; and

Page 451 (after line 23), after Part 25, insert:

**Part 25A—Domestic Offsets Integrity Committee**

**Division 1—Establishment and functions of the Domestic Offsets Integrity Committee**

**373A Establishment of the Domestic Offsets Integrity Committee**

The Domestic Offsets Integrity Committee is established.

**373B Functions of the Domestic Offsets Integrity Committee**

- (1) The Domestic Offsets Integrity Committee has the following functions:
  - (a) to advise the Minister about matters relating to the making or amendment of domestic offsets project methodology determinations;
  - (b) to advise the Secretary about matters that:
    - (i) relate to offsets projects; and
    - (ii) are referred to the Committee by the Secretary;
  - (c) to do anything incidental to or conducive to the performance of the above functions.
- (2) In advising the Minister to make or amend a domestic offsets project methodology determination, the Domestic Offsets Integrity Committee must:
  - (a) assess the costs and benefits of making or amending the determination; and
  - (b) have regard to such other matters as the Domestic Offsets Integrity Committee considers relevant.

**373C Consultation by the Domestic Offsets Integrity Committee**

*Domestic offsets project methodology determination*

- (1) The Domestic Offsets Integrity Committee must not advise the Minister to make or amend a domestic offsets project methodology determination unless the Committee has first:
  - (a) published on the Department's website:
    - (i) a draft of the determination or amendment; and
    - (ii) a notice inviting the public to make a submission to the Committee on the draft by a specified time limit; and
  - (b) considered any submissions that were received within that time limit.
- (2) The time limit must not be shorter than 60 days.

*Work program and priorities*

- (3) At least once each financial year, the Domestic Offsets Integrity Committee must:
  - (a) publish on the Department's website a statement setting out the Committee's draft work program and priorities; and
  - (b) invite the public to make a submission to the Committee on the draft by a specified time limit.
- (4) The time limit must not be shorter than 60 days.

**Division 2—Membership of the Domestic Offsets Integrity Committee****373D Membership of the Domestic Offsets Integrity Committee**

The Domestic Offsets Integrity Committee consists of the following members:

- (a) a Chair;
- (b) at least 4, and not more than 5, other members.

**373E Appointment of Domestic Offsets Integrity Committee members**

- (1) Each Domestic Offsets Integrity Committee member is to be appointed by the Minister by written instrument.

Note: The Domestic Offsets Integrity Committee member is eligible for reappointment: see subsection 33(4A) of the *Acts Interpretation Act 1901*.

- (2) A person is not eligible for appointment as a Domestic Offsets Integrity Committee member unless the Minister is satisfied that the person has:
  - (a) substantial experience or knowledge; and
  - (b) significant standing;in at least one field of expertise that is relevant to the functions of the Domestic Offsets Integrity Committee.
- (3) The Minister must ensure that:
  - (a) the Chair of the Domestic Offsets Integrity Committee is not a person covered by subsection (4); and
  - (b) a majority of the other Domestic Offsets Integrity Committee members are not persons covered by subsection (4).
- (4) This subsection applies to the following persons:
  - (a) an employee of the Commonwealth;
  - (b) an employee of an authority of the Commonwealth;
  - (c) a person who holds a full-time office under a law of the Commonwealth.
- (5) The Minister must ensure that one Domestic Offsets Integrity Committee member:
  - (a) is an SES employee in the Department; or
  - (b) holds an Executive Officer (Level 2) position in the Department.
- (6) The Minister must ensure that one Domestic Offsets Integrity Committee member is an officer of the Commonwealth Scientific and Industrial Research Organisation nominated by the Chief Executive of the Commonwealth Scientific and Industrial Research Organisation.
- (7) A Domestic Offsets Integrity Committee member holds office on a part-time basis.

**373F Period for appointment for Domestic Offsets Integrity Committee members**

A Domestic Offsets Integrity Committee member holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.



**373G Acting Domestic Offsets Integrity Committee members***Acting Chair of Domestic Offsets Integrity Committee*

- (1) The Minister may appoint a Domestic Offsets Integrity Committee member to act as the Chair of the Domestic Offsets Integrity Committee:
  - (a) during a vacancy in the office of the Domestic Offsets Integrity Committee Chair (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Chair of the Domestic Offsets Integrity Committee:
    - (i) is absent from duty or from Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

*Acting Domestic Offsets Integrity Committee member (other than the Chair)*

- (2) The Minister may appoint a person to act as a Domestic Offsets Integrity Committee member (other than the Chair of the Domestic Offsets Integrity Committee):
  - (a) during a vacancy in the office of a Domestic Offsets Integrity Committee member (other than the Chair of the Domestic Offsets Integrity Committee), whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when a Domestic Offsets Integrity Committee member (other than the Chair of the Domestic Offsets Integrity Committee):
    - (i) is absent from duty or Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

*Eligibility*

- (3) A person is not eligible for appointment to act as:
  - (a) the Chair of the Domestic Offsets Integrity Committee; or
  - (b) a Domestic Offsets Integrity Committee member (other than the Chair of the Domestic Offsets Integrity Committee);unless the person is eligible for appointment as a Domestic Offsets Integrity Committee member.

Note: See subsection 373E(2).

*Validation*

- (4) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
  - (a) the occasion for the appointment had not arisen; or
  - (b) there was a defect or irregularity in connection with the appointment; or
  - (c) the appointment ceased to have effect; or
  - (d) the occasion to act had not arisen or had ceased.

Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

**373H Procedures**

- (1) The regulations may prescribe the procedures to be followed at or in relation to meetings of the Domestic Offsets Integrity Committee, including matters relating to the following:
  - (a) the convening of meetings of the Domestic Offsets Integrity Committee;
  - (b) the number of Domestic Offsets Integrity Committee members who are to constitute a quorum;
  - (c) the selection of a Domestic Offsets Integrity Committee member to preside at meetings of the Domestic Offsets Integrity Committee in the absence of the Chair of the Domestic Offsets Integrity Committee;
  - (d) the manner in which questions arising at a meeting of the Domestic Offsets Integrity Committee are to be decided.
- (2) A resolution is taken to have been passed at a meeting of the Domestic Offsets Integrity Committee if:
  - (a) without meeting, a majority of Domestic Offsets Integrity Committee members indicate agreement with the resolution in accordance with the method determined by the Domestic Offsets Integrity Committee under subsection (3); and
  - (b) all Domestic Offsets Integrity Committee members were informed of the proposed resolution, or reasonable efforts had been made to inform all Domestic Offsets Integrity Committee members of the proposed resolution.
- (3) Subsection (2) applies only if the Domestic Offsets Integrity Committee:
  - (a) determines that it applies; and
  - (b) determines the method by which Domestic Offsets Integrity Committee members are to indicate agreement with resolutions.
- (4) If a Domestic Offsets Integrity Committee member is an APS employee in the Department, the member:
  - (a) is not entitled to vote for a resolution at a meeting of the Domestic Offsets Integrity Committee; and
  - (b) is not entitled to indicate agreement with a resolution as mentioned in paragraph (2)(a); and
  - (c) is not to be counted for the purposes of determining whether a majority of Domestic Offsets Integrity Committee members:
    - (i) have voted for a resolution at a meeting of the Domestic Offsets Integrity Committee; or
    - (ii) have indicated agreement with a resolution as mentioned in paragraph (2)(a).

**373J Disclosure of interests to the Minister**

A Domestic Offsets Integrity Committee member must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

**373K Disclosure of interests to Domestic Offsets Integrity Committee**

- (1) A Domestic Offsets Integrity Committee member who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Domestic Offsets Integrity Committee must disclose the nature of the interest to a meeting of the Domestic Offsets Integrity Committee.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the Domestic Offsets Integrity Committee member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of the Domestic Offsets Integrity Committee.
- (4) Unless the Domestic Offsets Integrity Committee otherwise determines, the Domestic Offsets Integrity Committee member:
  - (a) must not be present during any deliberation by the Domestic Offsets Integrity Committee on the matter; and
  - (b) must not take part in any decision of the Domestic Offsets Integrity Committee with respect to the matter.
- (5) For the purposes of making a determination under subsection (4), the Domestic Offsets Integrity Committee member:
  - (a) must not be present during any deliberation of the Domestic Offsets Integrity Committee for the purpose of making the determination; and
  - (b) must not take part in making the determination.
- (6) A determination under subsection (4) must be recorded in the minutes of the meeting of the Domestic Offsets Integrity Committee.

**373L Outside employment**

A Domestic Offsets Integrity Committee member must not engage in any paid employment that conflicts or may conflict with the proper performance of his or her duties.

**373M Remuneration and allowances**

- (1) A Domestic Offsets Integrity Committee member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.
- (2) A Domestic Offsets Integrity Committee member is to be paid the allowances that are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

**373N Leave of absence**

- (1) The Minister may grant leave of absence to the Chair of the Domestic Offsets Integrity Committee on the terms and conditions that the Minister determines.
- (2) The Chair of the Domestic Offsets Integrity Committee may grant leave of absence to a Domestic Offsets Integrity Committee member on the terms and conditions that the Chair determines.

**373P Resignation**

- (1) A Domestic Offsets Integrity Committee member may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

**373Q Termination of appointment**

- (1) The Minister may terminate the appointment of a Domestic Offsets Integrity Committee member for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of a Domestic Offsets Integrity Committee member if:
  - (a) the member:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or
    - (iv) makes an assignment of remuneration for the benefit of his or her creditors; or
  - (b) the member is absent, except on leave of absence, for 3 consecutive meetings of the Domestic Offsets Integrity Committee; or
  - (c) the member engages in paid employment that conflicts or may conflict with the proper performance of his or her duties (see section 373L); or
  - (d) the member fails, without reasonable excuse, to comply with section 373J or 373K.
- (3) The Minister may terminate the appointment of the Chair of the Domestic Offsets Integrity Committee if the Chair is:
  - (a) an employee of the Commonwealth; or
  - (b) an employee of an authority of the Commonwealth; or
  - (c) a person who holds a full-time office under a law of the Commonwealth.
- (4) The Minister may terminate the appointment of a Domestic Offsets Integrity Committee member if the member is a director, officer or employee of another person who is, or is likely to be, a liable entity for the eligible financial year in which the termination occurs.

**373R Other terms and conditions**

A Domestic Offsets Integrity Committee member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

**373S Assistance to Domestic Offsets Integrity Committee**

- (1) Any or all of the following:
  - (a) the Authority;
  - (b) the Department;
  - (c) any other Department, agency or authority of the Commonwealth;

may assist the Domestic Offsets Integrity Committee in the performance of its functions.

- (2) The assistance may include the following:
  - (a) the provision of information;
  - (b) the provision of advice;
  - (c) the making available of resources and facilities (including secretariat services and clerical assistance).

### **373T Consultants**

- (1) The Chair of the Domestic Offsets Integrity Committee may, on behalf of the Commonwealth, engage persons having suitable qualifications and experience as consultants to the Committee.
- (2) The consultants are to be engaged on the terms and conditions that the Chair determines in writing.

Page 454 (after line 3), after clause 375A, insert:

### **375B Delegation by the Secretary**

- (1) The Secretary may, by writing, delegate any or all of his or her functions or powers under this Act to an SES employee, or acting SES employee, in the Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 17AA of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation, the delegate must comply with any directions of the Secretary.

Clause 379, page 456 (after line 26), after paragraph (f), insert:

- (fa) a Domestic Offsets Integrity Committee member;

Clause 382, page 461 (after line 8), at the end of the clause, add:

*Domestic offsets program*

- (11) This Act and the associated provisions also have the effect they would have if the reference in subsection 259B(1) to the issue of free Australian emissions units were, by express provision, confined to the issue of free Australian emissions units to a person who is:
  - (a) a constitutional corporation; or
  - (b) the Commonwealth; or
  - (c) an authority of the Commonwealth.

Debate resumed.

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*Document:* Senator Wong tabled the following document:

Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and related bills—Details of proposed CPRS changes, dated 24 November 2009.

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Debate continued.

Question—That the amendments be agreed to—put and passed.

Senator Milne moved the following amendments together by leave:

Clause 4, page 5 (line 2), omit “or for a fixed charge”.

- Clause 13, page 33 (line 15), omit “free”, substitute “auctioned”.
- Clause 82, page 128 (line 9), omit “or for a fixed charge”.
- Clause 82, page 128 (line 13), omit “free”, substitute “auctioned”.
- Clause 88, page 131 (lines 13 and 14), omit paragraph (b).
- Clause 88, page 131 (lines 15 and 16), omit paragraph (c).
- Clause 90, page 135 (lines 29 to 32), omit paragraph (1)(b), substitute:  
(b) the unit is to be issued as the result of an auction.
- Clause 93, page 137 (line 1), omit “free”, substitute “auctioned”.
- Clause 101, page 141 (line 20), omit “free”, substitute “certain”.
- Clause 101, page 141 (line 23) to page 142 (line 3), omit paragraph (1)(a), substitute:  
(a) a person has been issued with:  
(i) an auctioned Australian emissions unit in accordance with the emissions-intensive trade-exposed assistance program;  
or  
(ii) a free Australian emissions unit in accordance with Part 11 (destruction of synthetic greenhouse gases); and
- Clause 353, page 437 (lines 23 to 25), omit paragraph (1)(ea).
- Clause 382, page 459 (line 33) to page 460 (line 2), omit “free” (twice occurring), substitute “auctioned”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob	Ludlam	Milne	Siewert (Teller)
Hanson-Young			

NOES, 49

Senators—

Adams (Teller)	Collins	Furner	Parry
Arbib	Conroy	Hogg	Polley
Back	Coonan	Hurley	Pratt
Barnett	Cormann	Hutchins	Ryan
Bernardi	Crossin	Lundy	Sherry
Bilyk	Eggleston	Macdonald	Stephens
Bishop	Farrell	Marshall	Sterle
Boswell	Feeney	McEwen	Wong
Brown, Carol	Ferguson	McLucas	Wortley
Bushby	Fielding	Minchin	Xenophon
Cameron	Fifield	Moore	
Carr	Fisher	Nash	
Cash	Forshaw	O'Brien	

Question negatived.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Milne, in respect of clauses 89, 103A, 103B and 272.

Clauses 89, 103A, 103B and 272 agreed to.

Senator Milne moved the following amendments together by leave:

Clause 5, page 16 (after line 19), after the definition of *generation unit*, insert:

**Gold Standard certified** has the meaning given by subsection 145A(3).

Clause 144, page 190 (after line 7), after the first dot point, insert:

- There are restrictions on the registration of certain emissions units in the Registry.

Page 191 (after line 18), after clause 145, insert:

**145A Restrictions on registration of certain emissions units in the Registry**

- (1) The Authority must ensure that, of the total of all Australian emissions units, Kyoto units and non-Kyoto international emissions units registered in the Registry, no more than 20% cumulatively are:
  - (a) certified emission reductions (including temporary certified emission reductions and long-term certified emission reductions) generated by projects in countries classified as “least developed” by the United Nations; and
  - (b) emission reduction units; and
  - (c) any other type of eligible international emissions unit prescribed for the purpose of this section.
- (2) The Authority must not register in the Registry any certified emission reductions (including temporary certified emission reductions and long-term certified emission reductions) and emission reduction units which are not Gold Standard certified.
- (3) For the purposes of this Act, *Gold Standard certified* means certification by the Gold Standard Foundation in accordance with the Gold Standard methodology for carbon offset project development.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

**AYES, 5**

Senators—

Brown, Bob	Ludlam	Milne	Siewert (Teller)
Hanson-Young			

**NOES, 47**

Senators—

Abetz	Conroy	Hogg	O'Brien
Arbib	Crossin	Hurley	Parry
Back	Eggleston	Hutchins	Polley
Barnett	Evans	Joyce	Pratt
Bilyk	Farrell	Kroger	Sherry
Bishop	Faulkner	Ludwig	Stephens
Boswell	Feeney	Lundy	Sterle
Brown, Carol	Ferguson	Marshall	Williams (Teller)
Cameron	Fielding	McEwen	Wong
Carr	Fisher	McLucas	Wortley
Colbeck	Forshaw	Moore	Xenophon
Collins	Furner	Nash	

Question negatived.

Bill, as amended, further debated.

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*Document:* Senator Wong tabled the following document:

Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and related bills—Cameo analysis of household assistance package.

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Senator Milne moved the following amendments together by leave:

Clause 13, page 33 (line 17), omit “; and”, substitute “.”.

Clause 13, page 33 (lines 18 and 19), omit paragraph (c).

Clause 82, page 128 (line 15), omit “; and”, substitute “.”.

Clause 82, page 128 (lines 16 to 18), omit paragraph (c).

Clause 88, page 131 (lines 17 and 18), omit paragraph (d).

Clause 93, page 137 (line 3), omit “and”.

Clause 93, page 137 (lines 4 to 6), omit paragraph (1)(c).

Clause 129, page 173 (lines 8 to 12), omit paragraph (5A)(a), substitute:

(a) an Australian emissions unit was issued in accordance with the emissions-intensive trade-exposed assistance program; and

Clause 382, page 460 (lines 6 to 32), omit subclauses (8), (9) and (9A).

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob  
Hanson-Young

Ludlam

Milne

Siewert (Teller)

NOES, 54

Senators—

Adams  
Arbib  
Back  
Barnett  
Bilyk  
Birmingham  
Bishop  
Boswell  
Boyce  
Brandis  
Brown, Carol  
Bushby (Teller)  
Cameron  
Cash

Colbeck  
Collins  
Conroy  
Cormann  
Crossin  
Evans  
Farrell  
Faulkner  
Feeney  
Ferguson  
Fielding  
Fisher  
Forshaw  
Furner

Heffernan  
Humphries  
Hurley  
Hutchins  
Joyce  
Ludwig  
Lundy  
Marshall  
McEwen  
McGauran  
McLucas  
Moore  
Nash  
O'Brien

Parry  
Payne  
Polley  
Pratt  
Sherry  
Stephens  
Sterle  
Troeth  
Williams  
Wong  
Wortley  
Xenophon

Question negatived.

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*After 10 pm:* The Deputy President (Senator Ferguson) resumed the chair and the Chair of Committees reported progress.

*Suspension of sitting:* The sitting of the Senate was suspended at 10.01 pm till 10 am, Tuesday, 1 December 2009.

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TUESDAY, 1 DECEMBER 2009

*At 10 am—*

The sitting of the Senate resumed.

**11 PRAYERS**

The President read prayers.

**12 REGIONAL AND REMOTE INDIGENOUS COMMUNITIES—SELECT COMMITTEE—DOCUMENT—THIRD REPORT**

Senator Williams, at the request of the Chair of the Select Committee on Regional and Remote Indigenous Communities (Senator Scullion), tabled the following document:

Regional and Remote Indigenous Communities—Select Committee—Third report—Correction.

Document ordered to be printed on the motion of Senator Williams.

**13 DOCUMENTS**

The following documents were tabled by the Clerk:

*[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]*

Acts Interpretation Act—Select Legislative Instrument 2009 No. 319—Acts Interpretation (Registered Relationships) Amendment Regulations 2009 (No. 1) [F2009L04295]\*.

Australian Citizenship Act—Select Legislative Instrument 2009 No. 330—Australian Citizenship Amendment Regulations 2009 (No. 2) [F2009L04337]\*.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 18 of 2009—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2009L04333]\*.

Civil Aviation Act—

Civil Aviation Regulations—

Civil Aviation Order 82.6 Amendment Order (No. 1) 2009 [F2009L04350]\*.

Instruments Nos CASA—

529/09—Instructions – for approved use of P-RNAV procedures (A330-200/300) aircraft [F2009L04153]\*.

532/09—Authorisation, permission and direction – helicopter special operations [F2009L04198]\*.

545/09—Approval – operations without an approved digital flight data recorder [F2009L04311]\*.

EX104/09—Exemption – refuelling with passengers on board [F2009L04323]\*.

## Civil Aviation Safety Regulations—

## Airworthiness Directives—

AD/BELL 206/172 Amdt 1—Power Turbine RPM Steady State Operation Avoidance [F2009L04352]\*.

AD/DAUPHIN/83 Amdt 2—Tail Rotor Gearbox Oil Level and Pitch Control Rod Bearing [F2009L04351]\*.

AD/PC-12/58—Air Data Attitude & Heading Reference System [F2009L04353]\*.

AD/SF340/9 Amdt 2—Power Control Cable [F2009L04362]\*.

AD/SF340/16 Amdt 1—AC Generator P/No. 31342-001 [F2009L04366]\*.

## Instruments Nos CASA—

EX101/09—Exemption – provision of Part 139H of CASR 1998 – application of foam by attack vehicle monitor [F2009L04376]\*.

EX105/09—Exemption – participation in land and hold short operations [F2009L04360]\*.

## Commissioner of Taxation—Public Rulings—

Class Rulings—CR 2009/67-CR 2009/69.

Product Rulings—PR 2009/58-PR 2009/61.

## Corporations Act—Select Legislative Instruments 2009 Nos—

327—Corporations Amendment Regulations 2009 (No. 8) [F2009L04316]\*.

328—Corporations Amendment Regulations 2009 (No. 9) [F2009L04307]\*.

## Customs Act—

Select Legislative Instrument 2009 No. 320—Customs Amendment Regulations 2009 (No. 7) [F2009L04303]\*.

## Tariff Concession Orders—

0911328 [F2009L04225]\*.

0911330 [F2009L04227]\*.

0911333 [F2009L04226]\*.

0911336 [F2009L04228]\*.

0911694 [F2009L04235]\*.

0911881 [F2009L04231]\*.

0911882 [F2009L04233]\*.

0912331 [F2009L04234]\*.

## Defence Force Discipline Act—Select Legislative Instrument 2009 No. 323—

Defence Force Discipline Amendment Regulations 2009 (No. 1) [F2009L04315]\*.

## Environment Protection and Biodiversity Conservation Act—

## Amendments of lists of exempt native specimens—

EPBC303DC/SFS/2009/37 [F2009L04372]\*.

EPBC303DC/SFS/2009/43 [F2009L04356]\*.

EPBC303DC/SFS/2009/44 [F2009L04359]\*.

EPBC303DC/SFS/2009/45 [F2009L04354]\*.

EPBC303DC/SFS/2009/46 [F2009L04358]\*.

Select Legislative Instrument 2009 No. 302—Environment Protection and Biodiversity Conservation Amendment Regulations 2009 (No. 3) [F2009L04193]—Explanatory Statement [*in substitution for explanatory statement tabled with instrument on 17 November 2009*].

## Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Amendment Orders 2009 (No. 2) [F2009L04375]\*.

Fair Work (State Referral and Consequential and Other Amendments) Act and Fair Work (Transitional Provisions and Consequential Amendments) Act—Select Legislative Instrument 2009 No. 337—Fair Work Legislation Amendment Regulations 2009 (No. 1) [F2009L04339]\*.

Fair Work (Transitional Provisions and Consequential Amendments) Act—Select Legislative Instrument 2009 No. 335—Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulations 2009 (No. 1) [F2009L04328]\*.

Family Law Act—Select Legislative Instruments 2009 Nos—

321—Family Law (Superannuation) Amendment Regulations 2009 (No. 2) [F2009L04293]\*.

322—Family Law Amendment Regulations 2009 (No. 2) [F2009L04294]\*.

Financial Management and Accountability Act—Select Legislative Instrument 2009 No. 329—Financial Management and Accountability Amendment Regulations 2009 (No. 7) [F2009L04322]\*.

Financial Sector (Collection of Data) Act—Financial Sector (Collection of Data) (Reporting Standard) Determination No. 29 of 2009—Reporting Standard FRS 100.0 Reporting Requirements for First Home Saver Accounts Providers [F2009L04331]\*.

Fisheries Management Act—

Fisheries Management (Southern and Eastern Scalefish and Shark Fishery – Variation of Total Allowable Catch) Temporary Order 2009 (No. 2) [F2009L04310]\*.

Fisheries Management (Southern Bluefin Tuna Fishery Management Plan) Temporary Order 2009 (No. 2) [F2009L04349]\*.

Heard Island and McDonald Islands Fishery Management Plan 2002—HIMIF 2009/2010 TAC D8 Determination—Total Allowable Catch Determination – 2009/2010 Season [F2009L04282]\*.

Select Legislative Instrument 2009 No. 318—Fisheries Management (Southern Bluefin Tuna Fishery) Amendment Regulations 2009 (No. 1) [F2009L04289]\*.

Southern Bluefin Tuna Fishery Management Plan 1995—2009-2011 SBT Australian National Catch Allocation Determination [F2009L04382]\*.

Higher Education Support Act—List of Grants under Division 41 (Research), dated 15 December 2008 [F2009L04336]\*.

Household Stimulus Package Act (No. 2)—Household Stimulus Payments Administrative Scheme (FaHCSIA) Determination 2009 [F2009L04379]\*.

*Income Tax Assessment Act 1936*—Select Legislative Instrument 2009 No. 334—Income Tax Amendment Regulations 2009 (No. 3) [F2009L04313]\*.

Independent Contractors Act—Select Legislative Instrument 2009 No. 333—Independent Contractors Amendment Regulations 2009 (No. 1) [F2009L04308]\*.

Migration Act—Select Legislative Instrument 2009 No. 331—Migration Amendment Regulations 2009 (No. 14) [F2009L04326]\*.

National Health Act—Instruments Nos PB—

115 of 2009—Amendment determination – Pharmaceutical Benefits – Early Supply [F2009L04346]\*.

117 of 2009—Determination made pursuant to subsection 84AE(3) [F2009L04374]\*.

Nuclear Non-Proliferation (Safeguards) Act—Select Legislative Instrument 2009 No. 338—Nuclear Non-Proliferation (Safeguards) Amendment Regulations 2009 (No. 1) [F2009L04342]\*.

Ozone Protection and Synthetic Greenhouse Gas Management Act—Exemption No. OZO8913419—Strategic Airline Pty Ltd, dated 2 November 2009.

Patents Act, Trade Marks Act and Designs Act—Select Legislative Instrument 2009 No. 332—Intellectual Property Law Amendment Regulations 2009 (No. 2) [F2009L04297]\*.

Privacy Act—Select Legislative Instrument 2009 No. 326—Privacy (Private Sector) Amendment Regulations 2009 (No. 2) [F2009L04306]\*.

Quarantine Act—Quarantine Service Fees Amendment Determination 2009 (No. 3) [F2009L04300]\*.

Remuneration Tribunal Act—Select Legislative Instruments 2009 Nos—

325—Remuneration Tribunal (Members' Fees and Allowances) Amendment Regulations 2009 (No. 1) [F2009L04330]\*.

339—Remuneration Tribunal (Miscellaneous Provisions) Amendment Regulations 2009 (No. 1) [F2009L04347]\*.

Safety, Rehabilitation and Compensation Act—Select Legislative Instrument 2009 No. 336—Safety, Rehabilitation and Compensation Amendment Regulations 2009 (No. 1) [F2009L04329]\*.

Schools Assistance Act—Select Legislative Instrument 2009 No. 324—Schools Assistance Amendment Regulations 2009 (No. 2) [F2009L04324]\*.

Social Security (Administration) Act—Social Security (Administration) (Declared relevant Northern Territory areas – Various) Determination 2009 (No. 12) [F2009L04343]\*.

Social Security and Other Legislation Amendment (Economic Security Strategy) Act—Economic Security Strategic Payments Administrative Scheme (FaHCSIA) Determination 2009 [F2009L04380]\*.

Student Assistance Act—Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2) [F2009L04345]\*.

Sydney Airport Curfew Act—Dispensation Report 11/09.

*Governor-General's Proclamation—Commencement of provisions of an Act*

*Tax Agent Services Act 2009—Parts 2 to 5—1 March 2010* [F2009L04314]\*.

\* Explanatory statement tabled with legislative instrument.

#### 14 LEAVE OF ABSENCE

Senator Williams, by leave, moved—That leave of absence be granted to Senator Scullion from 30 November to 4 December 2009, for personal reasons.

Question put and passed.

- 15 **CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CONSEQUENTIAL AMENDMENTS)**  
**BILL 2009 [No. 2]**  
**AUSTRALIAN CLIMATE CHANGE REGULATORY AUTHORITY BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CHARGES—CUSTOMS)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CHARGES—EXCISE)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CHARGES—GENERAL)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)**  
**(CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]**  
**EXCISE TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)**  
**BILL 2009 [No. 2]**  
**CUSTOMS TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)**  
**BILL 2009 [No. 2]**  
**CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD ASSISTANCE) BILL 2009 [No. 2]**

Order of the day read for the further consideration of the bills in committee of the whole.

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*In the committee*

**CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]—**

Consideration resumed of the bill, as amended.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Milne, in respect of Part 9.

Part 9 agreed to.

Senator Milne moved the following amendment:

Clause 14, page 34 (lines 22 to 33), omit “99%” (wherever occurring), substitute “95%”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Milne moved the following amendments together by leave:

Clause 14, page 35 (after line 8), after paragraph (5)(a), insert:

(aa) must have regard to the principle that reducing the atmospheric concentration of greenhouse gases to 350 parts per million of carbon dioxide equivalence as quickly as possible is in Australia’s national interest;

Clause 14, page 35 (lines 14 to 17), omit subparagraph (5)(c)(i).

Clause 15, page 37 (after line 8), after paragraph (4)(a), insert:

- (aa) must have regard to the principle that reducing the atmospheric concentration of greenhouse gases to 350 parts per million of carbon dioxide equivalence as quickly as possible is in Australia's national interest;

Clause 15, page 37 (lines 14 to 17), omit subparagraph (4)(c)(i).

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 6

Senators—

Brown, Bob	Ludlam	Siewert (Teller)	Xenophon
Hanson-Young	Milne		

NOES, 46

Senators—

Adams (Teller)	Collins	Furner	O'Brien
Arbib	Conroy	Hogg	Parry
Back	Coonan	Humphries	Polley
Barnett	Cormann	Hurley	Pratt
Bilyk	Crossin	Hutchins	Ryan
Bishop	Farrell	Joyce	Sherry
Boswell	Feeney	Lundy	Stephens
Brandis	Ferguson	Macdonald	Sterle
Brown, Carol	Fielding	Marshall	Williams
Cameron	Fifield	McEwen	Wortley
Carr	Fisher	McLucas	
Colbeck	Forshaw	Moore	

Question negatived.

On the motion of the Minister for Climate Change and Water (Senator Wong) the following amendments, taken together by leave, were debated and agreed to:

Clause 24, page 70 (line 22), before "For the purposes of", insert "(1)".

Clause 24, page 70 (after line 30), at the end of the clause, add:

*Exclusion of agricultural emissions*

- (2) For the purposes of this Act, an *emission* of a greenhouse gas from the operation of a facility does not include any of the following emissions:
- (a) an emission of methane from the digestive tract of livestock;
  - (b) an emission of:
    - (i) methane; or
    - (ii) nitrous oxide;
 from the decomposition of:
    - (iii) livestock urine; or
    - (iv) livestock dung;
  - (c) an emission of methane from:
    - (i) rice fields; or
    - (ii) rice plants;
  - (d) an emission of:
    - (i) methane; or
    - (ii) nitrous oxide;

- from the burning of:
  - (iii) savannas; or
  - (iv) grasslands;
- (e) an emission of:
  - (i) methane; or
  - (ii) nitrous oxide;
 from the burning of:
  - (iii) crop stubble in fields; or
  - (iv) crop residues in fields; or
  - (v) sugar cane before harvest;
- (f) an emission of:
  - (i) carbon dioxide; or
  - (ii) methane; or
  - (iii) nitrous oxide;
 from soil.

- (3) Paragraph (2)(f) does not apply to an emission that is attributable to the operation of a landfill facility.

The Leader of The Nationals in the Senate (Senator Joyce) moved the following amendment:

Clause 24, page 70 (after line 30), at the end of the clause, add:

*Exclusion of emissions from non-commercial abatement projects*

- (4) For the purposes of this Act, an **emission** of a greenhouse gas from the operation of a facility does not include any emissions from a facility operated in connection with a non-commercial pilot project to develop technologies to:
  - (a) remove one or more greenhouse gases from the atmosphere; or
  - (b) reduce emissions of one or more greenhouse gases.
- (5) The Minister may, by legislative instrument, develop guidelines to assist in the application of subsection (4), including guidelines on the definition of **non-commercial pilot project**.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were agreed to:

Clause 33, page 82 (lines 12 to 17), omit subclause (2), substitute:

*Provisional emissions number*

- (2) For the purposes of this Act, that number is a **provisional emissions number** of the supplier for the eligible financial year.

Note: See also section 37A, which deals with the exclusion of exported fuel.

Clause 33, page 82 (line 21) to page 83 (line 2), omit subclause (4).

Clause 35, page 85 (lines 14 to 19), omit subclause (2), substitute:

*Provisional emissions number*

- (2) For the purposes of this Act, that number is a **provisional emissions number** of the supplier for the eligible financial year.

Note: See also section 37A, which deals with the exclusion of exported fuel.

Clause 35, page 85 (line 23) to page 86 (line 5), omit subclause (4).

Clause 37, page 87 (lines 18 to 24), omit subclause (2), substitute:

*Provisional emissions number*

- (2) For the purposes of this Act, that number is a **provisional emissions number** of the OTN holder for the eligible financial year in which the re-supply occurs.

Note: See also section 37A, which deals with the exclusion of exported fuel.

Clause 37, page 87 (line 28) to page 88 (line 13), omit subclause (4).

Page 88 (after line 13), after clause 37, insert:

**37A Exclusion of exported eligible upstream fuel**

*Object*

- (1) The object of this section is to ensure that there is no liability under the carbon pollution reduction scheme for exported eligible upstream fuel.

*Reduction of provisional emissions numbers—section 33 or 35*

- (2) If:

- (a) under section 33 or 35, or both, a person (the **supplier**) has one or more provisional emissions numbers for an eligible financial year; and  
 (b) the supplier has one or more netted-out numbers for the eligible financial year;

the total of those provisional emissions numbers is to be reduced (but not below zero) by the total of those netted-out numbers.

- (3) For the purposes of subsection (2), if:

- (a) during an eligible financial year, the supplier supplied an amount of eligible upstream fuel to another person (the **recipient**); and  
 (b) as a result of the supply, the supplier has, under section 33 or 35, a provisional emissions number for the eligible financial year; and  
 (c) after the supply, the supplier or recipient exported the fuel; and  
 (d) the fuel has been entered for export (within the meaning of section 113 of the *Customs Act 1901*); and  
 (e) the supplier has prescribed documentary evidence to show that the fuel was exported; and  
 (f) the potential greenhouse gas emissions embodied in the amount mentioned in paragraph (a) have a carbon dioxide equivalence of a particular number of tonnes;

the number mentioned in paragraph (f) is a **netted-out number** of the supplier for the eligible financial year.



*Reduction of provisional emissions numbers—section 37*

- (4) If:
- (a) under section 37, a person (the **OTN holder**) has one or more provisional emissions numbers for an eligible financial year; and
  - (b) the OTN holder has one or more netted-out numbers for the eligible financial year;
- the total of those provisional emissions numbers is to be reduced (but not below zero) by the total of those netted-out numbers.
- (5) For the purposes of subsection (4), if:
- (a) during an eligible financial year, the OTN holder re-supplied an amount of eligible upstream fuel to another person (the **recipient**); and
  - (b) as a result of the re-supply, the OTN holder has, under section 37, a provisional emissions number for the eligible financial year; and
  - (c) after the re-supply, the OTN holder or the recipient exported the fuel; and
  - (d) the fuel has been entered for export (within the meaning of section 113 of the *Customs Act 1901*); and
  - (e) the OTN holder has prescribed documentary evidence to show that the fuel was exported; and
  - (f) the potential greenhouse gas emissions embodied in the amount mentioned in paragraph (a) have a carbon dioxide equivalence of a particular number of tonnes;
- the number mentioned in paragraph (f) is a **netted-out number** of the OTN holder for the eligible financial year.

Senator Milne moved the following amendment:

Clause 88, page 131 (line 19), omit paragraph (e).

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob	Ludlam	Milne	Siewert (Teller)
Hanson-Young			

NOES, 49

Senators—

Adams (Teller)	Cash	Furner	Polley
Arbib	Colbeck	Hogg	Pratt
Back	Collins	Hurley	Ryan
Bernardi	Conroy	Hutchins	Stephens
Bilyk	Cormann	Johnston	Sterle
Bishop	Crossin	Kroger	Troeth
Boswell	Farrell	Lundy	Trood
Boyce	Feeney	McEwen	Wong
Brandis	Ferguson	McLucas	Wortley
Brown, Carol	Fielding	Moore	Xenophon
Bushby	Fifield	Nash	
Cameron	Fisher	O'Brien	
Carr	Forshaw	Parry	

Question negatived.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Milne, in respect of Part 10.

Part 10 agreed to.

Senator Milne moved the following amendment:

Page 138 (after line 4), after clause 95, insert:

**95A Domestic transfers of Australian emissions units**

- (1) If a person (the *first person*) is the registered holder of one or more Australian emissions units, the person may, by electronic notice transmitted to the Authority, instruct the Authority to transfer the units from the relevant Registry account kept by the person (the *first Registry account*) to:
  - (a) a Registry account kept by another person; or
  - (b) another Registry account kept by the first person.
- (2) An instruction under subsection (1) must set out:
  - (a) the account number of the first Registry account; and
  - (b) the account number of the Registry account mentioned in paragraph (1)(a) or (b); and
  - (c) such other information as is specified in the regulations.

*Compliance with instruction*

- (3) If the Authority receives an instruction under subsection (1), the Authority must give effect to the instruction as soon as practicable after receiving it.
- (4) If the Authority gives effect to an instruction under subsection (1), the Registry must set out a record of the instruction.
- (5) If the first person is the Commonwealth, the Minister may give an instruction under subsection (1) on behalf of the first person.

**95B Outgoing international transfers of Australian emissions units**

- (1) If a person (the *first person*) is the registered holder of one or more Australian emissions units, the person may, by electronic notice transmitted to the Authority, instruct the Authority to transfer the units from the relevant Registry account kept by the person (the *first Registry account*) to:
  - (a) a foreign account kept by another person; or
  - (b) a foreign account kept by the first person.
- (2) An instruction under subsection (1) must set out:
  - (a) the account number of the first Registry account; and
  - (b) such other information as is specified in the regulations.

*Compliance with instruction*

- (3) If the Authority receives an instruction under subsection (1), the Authority must give effect to the instruction as soon as practicable after receiving it.
- (4) If the Authority gives effect to an instruction under subsection (1), the Registry must set out a record of the instruction.

- (5) If the first person is the Commonwealth, the Minister may give an instruction under subsection (1) on behalf of the first person.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Joyce moved the following amendment:

Page 143 (after line 23), after Subdivision C, insert:

**Subdivision CA—Commissions payable in relation to trading of Australian emissions units**

**103AA Commissions payable in relation to trading of Australian emissions units**

A person must not charge a commission greater than 0.01% of the gross selling price in relation to the trading or auction of an Australian emissions unit.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were debated and agreed to:

Clause 97, page 139 (line 2), omit “14 days”, substitute “90 days”.

Clause 97, page 139 (line 14), omit “14-day”, substitute “90-day”.

Clause 116C, page 157 (line 11), omit “14 days”, substitute “90 days”.

Clause 116C, page 157 (line 23), omit “14-day”, substitute “90-day”.

Clause 122B, page 163 (line 22), omit “14 days”, substitute “90 days”.

Clause 122B, page 164 (line 4), omit “14-day”, substitute “90-day”.

On the motion of Senator Wong the following amendment was debated and agreed to:

Clause 103, page 142 (line 16), omit “The Authority”, substitute “The Minister”.

On the motion of Senator Wong the following amendments, taken together by leave, were debated and agreed to:

Clause 130, page 176 (line 8), omit “more.”, substitute “more; and”.

Clause 130, page 176 (after line 8), at the end of subclause (1), add:

- (c) if the current eligible financial year begins on or after 1 July 2012—there is a national scheme cap number for the current eligible financial year.

Clause 132, page 179 (line 9), before “there is”, insert “if the current eligible financial year begins on or after 1 July 2012—”.

Clause 226, page 300 (line 16), omit “*interpretation*”, substitute “*Interpretation*”.

Clause 239, page 319 (line 12), omit “projects areas”, substitute “project areas”.

Clause 241B, page 326 (line 25), before “a chargee”, insert “is”.

Clause 375A, page 454 (line 2), omit “a State”, substitute “the State”.

Senator Xenophon moved the following amendments together by leave:

Page 204 (after line 4), after Part 7, insert:

**Part 7A—Electricity generation benchmark scheme**

**Division 1—Introduction**

**164A Aim and objects**

- (1) The aim of this Part is to create incentives for the electricity generation sector in Australia to reduce emissions.
- (2) The objects of this Part are:
  - (a) to create incentives for abatement of emissions while mitigating the price impact of electricity wholesale prices on users; and
  - (b) to ensure that any increase in energy costs is a gradual increase for all users; and
  - (c) to promote lower emissions and improved price signals in relation to electricity generation; and
  - (d) to provide orderly transitional arrangements in respect of all electricity generated in Australia until 2030.

**164B Simplified outline**

The following is a simplified outline of this Part:

- The regulations may formulate a scheme, to be known as the electricity generation benchmark scheme, for the issue of free Australian emissions units in respect of all electricity generated in Australia.
- The electricity generation benchmark scheme may:
  - (a) require a recipient of free Australian emissions units to relinquish units; and
  - (b) impose reporting or record-keeping requirements on a recipient of free Australian emissions units.

**Division 2—Formulation of the electricity generation benchmark scheme****164C Electricity generation benchmark scheme**

- (1) The regulations must formulate a scheme (to be known as the *electricity generation benchmark scheme*) for the issue of free Australian emissions units in respect of all electricity generated in Australia.
- (2) For the purposes of regulations made under subsection (1) the allocation of free units to electricity generators under the scheme is the product of:
  - (a) the electricity production for the year; and
  - (b) the electricity generation allocation factor for the year;

where:

*electricity production for the year* means the total number of megawatt hours of electricity generated by the generation unit in the financial year.

*electricity generation allocation factor* for a year means the amount specified in the following table for the financial year:

<b>For the financial year beginning...</b>	<b>Electricity generation allocation factor is</b>
1 July 2011	0.86
1 July 2012	0.83
1 July 2013	0.79
1 July 2014	0.76
1 July 2015	0.73
1 July 2016	0.70
1 July 2017	0.67
1 July 2018	0.63
1 July 2019	0.60
1 July 2020	0.57
1 July 2021	0.54
1 July 2022	0.51
1 July 2023	0.47
1 July 2024	0.44
1 July 2025	0.41
1 July 2026	0.38
1 July 2027	0.35
1 July 2028	0.31
1 July 2029	0.28
1 July 2030	0.25

- (3) The electricity generation benchmark scheme must provide that free Australian emissions units must not be issued to a person in accordance with the scheme unless the person:
- (a) meets such requirements as are specified in the scheme; and
  - (b) has a Registry account.
- (4) The Minister must take all reasonable steps to ensure that regulations are made for the purposes of subsection (1) before 1 July 2010.

#### **164D Relinquishment requirement**

- (1) The electricity generation benchmark scheme may provide that, if:
- (a) a number of free Australian emissions units have been issued to a person in accordance with the scheme; and
  - (b) any of the following subparagraphs applies:
    - (i) a specified event happens;
    - (ii) a specified circumstance comes into existence;
    - (iii) the Authority is satisfied about a specified matter;
- the person is required to relinquish a number of Australian emissions units ascertained in accordance with the scheme.

- (2) Division 3 of Part 15 relating to compliance with relinquishment requirements applies in relation to the scheme as if a reference to the emissions-intensive trade-exposed assistance program was a reference to the electricity generation benchmark scheme.
- (3) The number of Australian emissions units required to be relinquished by the person must not exceed the number of units mentioned in paragraph (1)(a).

**164E Reporting requirement***Scope*

- (1) This section applies to a person if free Australian emissions units have been issued to the person in accordance with the electricity generation benchmark scheme.

*Requirement*

- (2) The electricity generation benchmark scheme may make provision for and in relation to requiring the person to give one or more written reports to the Authority.

**164F Record-keeping requirement***Scope*

- (1) This section applies to a person if free Australian emissions units have been issued to the person in accordance with the electricity generation benchmark scheme.

*Requirement*

- (2) The electricity generation benchmark scheme may make provision for and in relation to requiring the person to:
  - (a) make records of information specified in the scheme; and
  - (b) retain such a record, or a copy, for 5 years after the record was made.

**164G Other matters**

- (1) The electricity generation benchmark scheme may make provision for and in relation to the following matters:
  - (a) applications for free Australian emissions units;
  - (b) the approval by the Authority of a form for such an application;
  - (c) information that must accompany such an application;
  - (d) documents that must accompany such an application;
  - (e) the method of calculating the number of free Australian emissions units to be issued to a person in accordance with the scheme.
- (2) The electricity generation benchmark scheme may provide that an application for free Australian emissions units must be accompanied by a prescribed report.
- (3) The electricity generation benchmark scheme may provide for verification by statutory declaration of statements in applications for free Australian emissions units.

**164H Ancillary or incidental provisions**

The electricity generation benchmark scheme may contain ancillary or incidental provisions.

**Division 3—Compliance with reporting and record-keeping requirements under the electricity generation benchmark scheme**

**164I Compliance with reporting and record-keeping requirements**

*Reporting requirements*

- (1) If a person is subject to a requirement under the electricity generation benchmark scheme to give a report to the Authority, the person must comply with that requirement.

*Record-keeping requirements*

- (2) If a person is subject to a requirement under the electricity generation benchmark scheme to:
- (a) make a record of information; or
  - (b) retain such a record or a copy;
- the person must comply with that requirement.

*Ancillary contraventions*

- (3) A person must not:
- (a) aid, abet, counsel or procure a contravention of subsection (1) or (2); or
  - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1) or (2); or
  - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1) or (2); or
  - (d) conspire with others to effect a contravention of subsection (1) or (2).

*Civil penalty provisions*

- (4) Subsections (1), (2) and (3) are *civil penalty provisions*.

Note: Part 21 provides for pecuniary penalties for breaches of civil penalty provisions.

Clause 82, page 128 (after line 12), after paragraph (a) under the fourth dot point, insert:

- (aa) the total number of free Australian emissions units issued in accordance with the electricity generation benchmark scheme; and

Clause 88, page 131 (after line 14), after paragraph (b), insert:

- (ba) in accordance with the electricity generation benchmark scheme; or

Clause 93, page 136 (after line 29), after paragraph (a), insert:

- (aa) the total number of free Australian emissions units with that vintage year issued in accordance with the electricity generation benchmark scheme; and

Clause 101, page 141 (after line 23), before subparagraph (1)(a)(i), insert:

- (ia) in accordance with the electricity generation benchmark scheme; or

Clause 103A, page 143 (after line 29), before subparagraph (1)(a)(i), insert:

- (ia) in accordance with the electricity generation benchmark scheme; or

Clause 167, page 207 (after line 10), after subclause (1), insert:

- (1A) The regulations must determine coal mining to be an emissions-intensive trade-exposed activity.

Clause 167, page 207 (after line 10), after subclause (1), insert:

- (1B) For the purposes of regulations made under subsection (1):
- (a) emissions-intensity must be assessed in relation to whether the industry-wide weighted average emissions intensity of an activity is above a threshold of:
    - (i) 1,000 tonnes of carbon dioxide equivalent per \$1,000,000 of revenue; or
    - (ii) 3,000 tonnes of carbon dioxide equivalent per \$1,000,000 of value added; and
  - (b) assistance to eligible activities must be set at 100% of the emissions-intensive trade-exposed electricity allocative baseline for activities that have an emissions intensity above the threshold in the assessment period; and
  - (c) the level of assistance to an eligible activity continues to apply to that activity until there is a comprehensive international agreement in relation to carbon pricing.

Clause 167, page 207 (after line 10), after subclause (1), insert:

- (1C) The emissions-intensive trade-exposed electricity allocation factor for a year is:
- 1 – electricity generation allocation factor for that year.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Xenophon moved the following amendment:

Page 204 (after line 4), after Part 7, insert:

## **Part 7B—National energy efficiency scheme**

### **Division 1—Introduction**

#### **164J Aim, objects and intentions**

- (1) The aim of this Part is to promote and recognise efficiency in the production and supply of energy for use in the residential and commercial sectors of the economy by creating a market for energy efficiency savings.
- (2) The objects of the scheme embodied in this Part are:
  - (a) to create incentives for households and business to choose actions that reduce their carbon emissions; and
  - (b) to deliver energy efficiency that would not have otherwise occurred; and
  - (c) to ensure that linkages between energy efficiency measures and carbon pollution reduction scheme measures are properly monitored, analysed and accounted for in establishing and achieving the objects of the Act and Australia's long-term greenhouse gas emission reduction targets.



- (3) The scheme is intended:
- (a) to complement the CPRS, since it is designed to address activities in regard to which the price signal created by the CPRS may not create a strong enough signal; and
  - (b) to operate separately to the CPRS, so that any emissions reductions that are delivered are additional to those realised through the CPRS; and
  - (c) to build on similar schemes in State and Territory jurisdictions, with a view to developing a consolidated national approach that harmonises approaches to energy efficiency.

#### 164K Simplified outline

The following is a simplified outline of this Part:

- The regulations must formulate a scheme, to be known as the national energy efficiency scheme, to create a market for energy efficiency savings across residential and commercial sectors of the economy.
- The Minister must, by 1 July 2011, undertake a consultation process on the design of the scheme, including consideration of the applicability at a national level of existing State and Territory schemes and consultation with key stakeholders.
- The Minister must take all reasonable steps to ensure that regulations which reflect the outcomes of the consultation process are made by 1 July 2012.
- The Authority is given additional functions in relation to the formulation and operation of the scheme.
- Although the principal link between the scheme and the CPRS is in market influences on the carbon price, the Authority may, in any year, determine an energy efficiency adjustment amount, which is an amount by which the Authority determines the national scheme cap number must be reduced to account for energy efficiency savings.
- If the Authority determines an amount as the energy efficiency adjustment amount for a year, the national scheme cap number for that year is taken to be reduced by that amount.

#### 164L Interpretation

In this Part:

**CPRS** means the carbon pollution reduction scheme, other than the scheme embodied in this Part.

**participant in the scheme** means a person who:

- (a) creates or deals with white certificates or equivalent property rights under the scheme; or
- (b) is a liable scheme entity.

**scheme** means the national energy efficiency scheme formulated in accordance with section 164M.

**Division 2—Formulation of the national energy efficiency scheme****164M National energy efficiency scheme**

- (1) The regulations must formulate a scheme (to be known as the *national energy efficiency scheme*) to create a market for energy efficiency savings in the production and supply of energy for use in the residential and commercial sectors of the economy.
- (2) Without otherwise limiting the design of the scheme, the scheme must encompass:
  - (a) either:
    - (i) the creation of tradable certificates representing energy efficiency savings (*white certificates*); or
    - (ii) another process for creating and trading verifiable property rights over particular energy efficiency savings (*equivalent property rights*); and
  - (b) the imposition of energy efficiency targets on liable scheme entities, which entities can meet by creating or trading white certificates or equivalent property rights; and
  - (c) the imposition of penalties for liable scheme entities which do not meet energy efficiency targets;
  - (d) procedures for the implementation and oversight of the scheme by the Authority.

**164N Consultation on the formulation of the scheme**

- (1) The Minister must, by 1 July 2011, undertake a consultative policy development process, with the aims of:
  - (a) formulating a national energy efficiency scheme;
  - (b) determining a method of setting energy efficiency targets under the scheme;
  - (c) developing the administrative requirements to implement the scheme.
- (2) The consultation process must, at a minimum, include:
  - (a) consultation with each of the States and Territories;
  - (b) consideration of the applicability at a national level of:
    - (i) the Greenhouse Gas Reduction Scheme, operating in New South Wales and the ACT; and
    - (ii) the Victorian Energy Efficiency Target Scheme; and
    - (iii) the South Australian Residential Energy Efficiency Scheme; and
    - (iv) the New South Wales Energy Efficiency Scheme; and
    - (v) any equivalent scheme operating or planned to operate in any other State or Territory jurisdiction during 2010;
  - (c) consultation with key stakeholders.

**164O Implementation**

The Minister must take all reasonable steps to ensure that regulations which reflect the outcomes of the consultation process are made by 1 July 2012.

**164P Functions of the Authority—formulation of the scheme**

The Authority has the following functions in relation to the formulation of the scheme:

- (a) assisting the Minister in the consultation process;
- (b) reviewing the operation of the scheme, and reporting to the Minister and the Parliament on the operation of the scheme at least every 2 years;
- (c) making recommendations to the Minister on matters of policy relating to the operation of the scheme;
- (d) any other function prescribed by the regulations for the purposes of this paragraph.

**164Q Elements of the scheme**

- (1) Without limiting the design of the scheme, the regulations may prescribe:
  - (a) which entities may create and deal with white certificates or equivalent property rights;
  - (b) procedures for the accreditation of such entities;
  - (c) the eligible activities through which white certificates or equivalent property rights may be created;
  - (d) the manner in which white certificates or equivalent property rights may be traded and otherwise dealt with;
  - (e) which entities are liable under the scheme (*liable scheme entities*);
  - (f) methods of estimating or calculating:
    - (i) energy efficiency savings made under the scheme; and
    - (ii) the effect of the scheme on the price of carbon;
  - (g) procedures for the transfer of property rights in energy efficiency savings between the scheme and State or Territory schemes dealing with energy efficiency;
  - (h) reporting and compliance protocols.
- (2) Without limiting the generality of paragraph (1)(e), the definition of *liable scheme entities* may include (but is not limited to) entities which produce or supply electricity, gas and oil for use in the residential and commercial sectors of the economy.

**164R Ancillary or incidental provisions**

The scheme may contain ancillary or incidental provisions.

**Division 3—Operation of the national energy efficiency scheme****164S Functions of the Authority—operation of the scheme**

- (1) The Authority has the following functions in relation to the operation of the scheme:
  - (a) to certify entities for the purposes of the scheme;
  - (b) to determine, in writing, energy efficiency savings targets to be met under the scheme;
  - (c) to verify energy efficiency savings and ensure that the benefit of property rights in relation to particular savings are not accounted for elsewhere;
  - (d) to monitor, analyse and report on energy efficiency savings;

(e) any other function prescribed by the regulations for the purposes of this paragraph.

(2) A determination under paragraph (1)(b) is not a legislative instrument.

**164T Links between energy efficiency and the CPRS**

(1) The principal link between the scheme and the CPRS is intended to be reflected in market influences on the carbon price.

(2) However, the Authority may, in any year, determine, in writing, an energy efficiency adjustment amount for that year.

(3) A determination under subsection (2) is not a legislative instrument.

(4) The *energy efficiency adjustment amount* for any year is an amount by which the Authority determines the national scheme cap number for the following year must be reduced to account for energy efficiency savings made under the scheme.

(5) The regulations may prescribe any of the following:

(a) factors the Authority may take into account in making such a determination;

(b) factors the Authority must take into account in making such a determination;

(c) a method of calculating the energy efficiency adjustment amount for a year.

(6) The Authority may determine that there is no energy efficiency adjustment amount for a particular year.

**164U Adjustment of national scheme cap number**

Despite any other provision of the carbon pollution reduction scheme, if the Authority determines an amount as the energy efficiency adjustment amount for a year, the national scheme cap number for the following year is taken to be reduced by that amount.

**Division 4—Reporting and record-keeping requirements**

**164V Reporting and record-keeping requirements**

(1) The scheme may make provision for and in relation to requiring a person who is a participant in the scheme to give one or more written reports to the Authority.

(2) The scheme may make provision for and in relation to requiring a person who is a participant in the scheme to:

(a) make records of information specified in the scheme; and

(b) retain such a record, or a copy, for 5 years after the record was made.

**164W Compliance with reporting and record-keeping requirements**

*Reporting requirements*

(1) If a person is subject to a requirement under the scheme to give a report to the Authority, the person must comply with that requirement.

*Record-keeping requirements*

(2) If a person is subject to a requirement under the scheme to:

(a) make a record of information; or

(b) retain such a record or a copy;

the person must comply with that requirement.

*Ancillary contraventions*

- (3) A person must not:
- (a) aid, abet, counsel or procure a contravention of subsection (1) or (2); or
  - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1) or (2); or
  - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1) or (2); or
  - (d) conspire with others to effect a contravention of subsection (1) or (2).

*Civil penalty provisions*

- (4) Subsections (1), (2) and (3) are *civil penalty provisions*.

Note: Part 21 provides for pecuniary penalties for breaches of civil penalty provisions.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Xenophon moved the following amendment:

Page 204 (after line 4), after Part 7, insert:

**Part 7C—Legacy waste or closed landfill facility scheme**

**Division 1—Introduction**

**164X Aim and objects**

The aim of this Part is to create additional incentives for abatement from legacy waste or closed landfill facilities under the carbon pollution scheme.

**164Y Interpretation**

In this Part:

*CPRS* means the carbon pollution reduction scheme, other than the provisions of this Part.

*scheme* means the legacy waste or closed landfill facility scheme formulated under section 164Z.

**164Z Legacy waste or closed landfill facility scheme**

- (1) The regulations must formulate a scheme (to be known as the *legacy waste or closed landfill facility scheme*) for the issue of free Australian emissions units in respect of abatement from legacy waste or closed landfill facilities under the CPRS.
- (2) The scheme must provide that free Australian emissions units must not be issued to a person in accordance with the scheme unless the person:
  - (a) meets such requirements as are specified in the scheme; and
  - (b) has a Registry account.
- (3) The Minister must take all reasonable steps to ensure that regulations are made for the purposes of subsection (1) before 1 July 2010.

- (4) The scheme must provide that a person is entitled to apply for and receive free Australian emissions units in respect of activities connected to a legacy waste and closed landfill facility without regard as to whether the infrastructure of the facility:
  - (a) was in place prior to the commencement of the CPRS; or
  - (b) was installed specifically to create offsets under the CPRS; or
  - (c) was installed to meet regulatory requirements which are in force, or may come into force, under any other law or regulation; or
  - (d) meets the requirements of any abatement regime which is in force, or may come into force, under any other law or regulation.
- (5) The scheme must not apply in respect of any person, activity or facility unless that person, activity or facility meets all of the requirements of the CPRS other than in respect of the matters specified in subsection (2).
- (6) The scheme may make provision for any of the matters mentioned in sections 168 to 173C, as if a reference in those sections to the emissions-intensive trade-exposed assistance program were a reference to the scheme.
- (7) The scheme may contain ancillary or incidental provisions.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Milne moved the following amendments together by leave:

Clause 165, page 205 (line 16), at the end of paragraph (2)(c), add “, only to the extent necessary to offset the loss of competitiveness created by the absence of carbon pricing policies in the economies of foreign competitors of the activity”.

Clause 165, page 205 (after line 30), at the end of the clause, add:

- (3) To avoid doubt, transitional assistance under this Part must not compensate for the loss of profits or reduced asset values resulting from the existence of the scheme embodied in this Act and the associated provisions.

Clause 166, page 206 (lines 1 to 16), omit the clause, substitute:

**166 Simplified outline**

The following is a simplified outline of this Part:

- The regulations may formulate a program, to be known as the emissions-intensive trade-exposed assistance program, for the auction of Australian emissions units in respect of activities that:
  - (a) under the program, are taken to be emissions-intensive trade-exposed activities; and
  - (b) are, or are to be, carried on in Australia during a financial year specified in the program.
- The regulations may provide for assistance under the program in the form of compensatory payments to an emissions-intensive trade-exposed activity, for each unit of production, by way of a credit against the activity's emissions obligations equivalent to the expected increase in world product prices that would eventuate if foreign competitors had carbon pricing policies similar to those of Australia.
- The emissions-intensive trade-exposed assistance program may impose reporting or record-keeping requirements on a registered holder under the program of auctioned Australian emissions units.

Clause 167, page 207 (line 6), omit “issue of free”, substitute “auction of”.

Clause 167, page 207 (after line 10), after subclause (1), insert:

- (1A) All Australian emissions units issued for the purposes of the emissions-intensive trade-exposed activities program must be auctioned.

Clause 167, page 207 (after line 10), after subclause (1), insert:

- (1B) The regulations may provide for assistance under the program, in the form of compensatory payments to an emissions-intensive trade-exposed activity, for each unit of production, by way of a credit against the activity's emissions obligations equivalent to the expected increase in world product prices that would eventuate if foreign competitors had carbon pricing policies similar to those of Australia.
- (1C) The Minister must consult the Productivity Commission before making a recommendation to the Governor-General about regulations to be made for the purposes of subsection (1B).

Clause 167, page 207 (line 12), omit “free”, substitute “auctioned”.

Clause 169, page 208 (line 6), omit “free”, substitute “auctioned”.

Clause 170, page 208 (line 15), omit “free”, substitute “auctioned”.

Clause 173B, page 213 (lines 14 to 20), omit subclause (2), substitute:

*No compensatory payments for 2 eligible financial years*

- (2) No compensatory payments in accordance with the emissions-intensive trade-exposed assistance program are to be made to the corporation for:
- (a) the first eligible financial year that begins after that time; or
  - (b) the eligible financial year that next follows the eligible financial year mentioned in paragraph (a).

Clause 273, page 357 (line 2) to page 358 (line 2), omit subclauses (1), (2) and (3).

Clause 274, page 358 (line 13) to page 359 (line 7), omit the clause, substitute:

**274 Quarterly reports about issue of free Australian emissions units under Part 11**

As soon as practicable after the end of each quarter, the Authority must publish on its website the total number of free Australian emissions units with a particular vintage year issued during the quarter in accordance with Part 11 (destruction of synthetic greenhouse gases).

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Milne, in respect of clauses 168 and 171.

Clauses 168 and 171 agreed to.

Senator Milne moved the following amendments together by leave:

Clause 165, page 205 (after line 30), at the end of the clause, add:

- (4) To avoid doubt, the Minister can at any time vary the transitional assistance provided to an activity under this Part in response to changes in the carbon pricing policies in the economies of foreign competitors of the activity.

Clause 167, page 207 (after line 18), at the end of the clause, add:

- (4) Any regulations made under subsection (1) which prescribe a carbon productivity contribution that is to apply to an emissions-intensive trade-exposed activity must not prescribe a contribution rate that is less than 4% per financial year.

Page 214 (after line 3), at the end of Part 8, add:

**Division 5—Review of operation of emissions-intensive trade-exposed assistance program**

**173D Review by Productivity Commission of operation of assistance program**

- (1) The Productivity Commission must review and report to the Minister on the operation of the emissions-intensive trade-exposed assistance program.
- (2) The review and report must be conducted in relation to each of the following periods:
  - (a) the 3-year period commencing 1 July 2010;
  - (b) each successive 3-year period.
- (3) The report in relation to a review must be provided to the Minister within 60 days after the end of the 3-year period to which the review relates.



- (4) Without limiting the matters to be covered by a review under subsection (1), the review must include an examination of the operation of the program:
  - (a) to determine if there is any evidence of leakage occurring directly as a result of domestic producers facing a higher carbon price relative to major foreign competitors;
  - (b) to assess the impact of any leakage on the level of jobs, production and emissions in the industry experiencing this leakage;
  - (c) to assess the economy-wide case for continuing compensatory payments to individual activities, taking into account the impact of the emissions-intensive trade-exposed assistance program and the Electricity Sector Adjustment Scheme on the competitiveness, job creation, production levels and emissions of other domestic industries;
  - (d) if relevant, to make recommendations about policy options to reduce leakage.
- (5) The Minister must, within 60 days of receiving a report, review the compensatory payments provided to individual activities under the program and determine whether or not the levels of compensatory payments need to be varied.
- (6) If the Minister determines under subsection (5) that the levels of compensatory payments to individual activities need to be varied, the Minister must take all reasonable steps to ensure that regulations are made for that purpose within 120 days of having received the relevant report.
- (7) Regulations made under subsection (6) must not take effect until the beginning of the financial year next after the financial year in which the regulations are made.
- (8) If the Minister determines under subsection (5) that the levels of compensatory payments do not need to be varied, the Minister must, within 5 sitting days of making that determination, cause to be tabled in each House of the Parliament a written statement setting out the Minister's reasons for making the determination.
- (9) If:
  - (a) the Minister determines under subsection (5) that the levels of compensatory payments do need to be varied and regulations are made for that purpose under subsection (6); and
  - (b) on a particular day (the *tabling day*), a copy of the regulations is tabled before a House of the Parliament under section 38 of the *Legislative Instruments Act 2003*;then, on or as soon as practicable after the tabling day, the Minister must cause to be tabled before that House a written statement setting out the Minister's reasons for making the determination under subsection (5).

Clause 353, page 439 (lines 5 to 8), omit “having regard to the general principle that industry should be given at least 5 years notice of material changes to the provision of assistance under the program”.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Xenophon moved the following amendment:

Clause 167, page 207 (after line 10), after subclause (1), insert:

- (1D) The emissions-intensive trade-exposed assistance program must provide that within 2 months of being issued with free Australian emissions units for a year in accordance with the program, the person to whom the units are issued must prepare a business plan in relation to the activity and submit it to the Minister.
- (1E) A business plan prepared under subsection (1D) must demonstrate:
  - (a) a commitment to reducing carbon emissions in relation to the activity; and
  - (b) that there will not be a net reduction in jobs in relation to the activity, other than as a result of investment in new technologies.
- (1F) A person who has submitted a business plan under subsection (1D) must submit a progress report on its implementation by the end of 10 months after the day on which free Australian emissions units were issued to the person.
- (1G) The Minister must within 30 days assess a progress report submitted under subsection (1F) in accordance with assessment criteria specified in the regulations and determine whether or not the objectives of the business plan are being met.
- (1H) If the Minister determines under subsection (1G) that the objectives of a business plan are not being met, the Minister may determine that the person is required under section 168 to relinquish all of, or a proportion of, the free Australian emissions units issued to the person for that year.
- (1I) If the Minister determines under subsection (1G) that the objectives of a business plan are being met only in part, the Minister may determine that the person is required under section 168 to relinquish a proportion of the free Australian emissions units issued to the person for that year.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Cormann, also on behalf of Senators Cash, Back, Eggleston and Adams, moved the following amendment:

Page 207 (after line 18), after clause 167, insert:

**167A Application of EITE to liquefied natural gas production**

- (1) The emissions-intensive trade-exposed assistance program must determine that liquefied natural gas (*LNG*) production is a highly emissions-intensive trade-exposed activity.

- (2) The activity definition of LNG production for the purposes of the emissions-intensive trade-exposed assistance program must apply to the entire LNG production process, including:
- (a) the production of the raw natural gas from an underground reservoir; and
  - (b) the transformation of the natural gas, including but not limited to:
    - (i) pre-treatment of the raw natural gas; and
    - (ii) liquids (water and condensate) removal; and
    - (iii) removal of acid gases (such as carbon dioxide and hydrogen sulphide); and
    - (iv) dehydration and mercury removal; and
    - (v) any flaring or venting of hydrocarbons and any fugitive emissions (for example from, but not limited to, compressor seals, valves and so on); and
    - (vi) the liquefaction of the natural gas into LNG; and
  - (c) the short-term buffer storage of LNG, where the volume of that buffer storage is designed specifically for the purpose of enabling efficient loading into the transportation system, such as ocean going tankers, at a frequency and rate determined by the facility's off-take requirements; and
  - (d) the loading of the LNG into a transportation system such as ocean going tankers; and
  - (e) the supply of utilities such as, but not limited to, compressed air, nitrogen, steam and water where these are used in support of the activity; and
  - (f) the regeneration of any catalysts or solvents used within the activity boundary; and
  - (g) the provision of support operations such as, but not limited to, on-site office, warehousing, and accommodation and the supply boats and aviation services where these are used primarily to support the above activities and in the absence of government supplied support infrastructure.
- (3) The emissions-intensive trade-exposed assistance program must provide for additional free Australian emissions units (a **supplementary allocation**) to be issued in respect of LNG production projects at an effective rate of at least 80 per cent.
- (4) For the purposes of this section, a **supplementary allocation** of free Australian emissions units is the number of free units required to be issued to a person in relation to a project to bring the aggregate number of free units issued in respect of that project in the previous year to a number equal to the specified percentage rate of assistance.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Xenophon moved the following amendment:

Page 214 (after line 3), after Part 8, insert:

**Part 8B—Emerging technologies offset program**

**Division 1—Introduction**

**173M Aim**

The aim of this Part is to enable entities to receive Australian emissions units in connection with the use of emerging technologies.

**173N Simplified outline**

The following is a simplified outline of this Part:

- The regulations must formulate a program, to be known as the emerging technologies offset program, for the issue of free Australian emissions units in respect of offset activities connected with the use of emerging technologies.
- The program may:
  - (a) require a recipient of free Australian emissions units to relinquish units; and
  - (b) impose reporting or record-keeping requirements on a recipient of free Australian emissions units.

**Division 2—Formulation of the emerging technologies offset program**

**173O Emerging technologies offset program**

- (1) The regulations must formulate a program (to be known as the *emerging technologies offset program*) for the issue of free Australian emissions units in respect of offset activities that:
  - (a) are connected with the use of technologies that, under the program, are taken to be emerging technologies; and
  - (b) are, or are to be, carried on in Australia during an eligible financial year specified in the program.
- (2) The emerging technologies offset program must provide that free Australian emissions units must not be issued to a person in accordance with the program unless the person:
  - (a) meets such requirements as are specified in the program; and
  - (b) has a Registry account.
- (3) Free Australian emission units must not be issued to a person under the emerging technologies offset program in relation to activities in respect of which free Australian emissions units have been issued under any other Part of the carbon pollution reduction scheme.
- (4) The Minister must take all reasonable steps to ensure that regulations are made for the purposes of subsection (1) before 1 July 2010.

**173P Emerging technologies**

- (1) For the purposes of the emerging technologies offset program, *emerging technology* includes the following:
  - (a) landfill waste gas capture;
  - (b) algal carbon capture and sequestration;
  - (c) plantstone carbon sequestration;

- (d) soil carbon sequestration;
  - (e) reforestation for CO<sub>2</sub> transfer;
  - (f) ocean nourishment technology;
  - (g) land management and soil carbon capture;
  - (h) biogas production;
  - (i) biomass conversion;
  - (j) a technology prescribed by the regulations as an emerging technology.
- (2) A person may apply to the Authority, in a form prescribed by the regulations, to have a technology recognised as an emerging technology.
- (3) If a person applies to have a technology recognised as an emerging technology, and the Authority is satisfied that the technology is not prescribed as an emerging technology, then the Authority must either:
- (a) recommend to the Minister that the technology be prescribed as an emerging technology; or
  - (b) do both of the following:
    - (i) recommend to the Minister that the technology not be prescribed as an emerging technology; and
    - (ii) publish on its website its reasons for not recommending that the technology be prescribed as an emerging technology.
- (4) The Authority may, by written notice given to an applicant, require the applicant to give the Authority further information in connection with the application.
- (5) If the Authority recommends to the Minister that the technology be prescribed as an emerging technology, the Minister must take all reasonable steps to ensure that regulations are made to prescribe the technology as an emerging technology.

#### **173Q Relinquishment requirement**

- (1) The emerging technologies offset program may provide that, if:
- (a) a number of free Australian emissions units have been issued to a person in accordance with the program; and
  - (b) any of the following subparagraphs applies:
    - (i) a specified event happens;
    - (ii) a specified circumstance comes into existence;
    - (iii) the Authority is satisfied about a specified matter;
- the person is required to relinquish a number of Australian emissions units ascertained in accordance with the program.
- (2) Division 3 of Part 15, relating to compliance with relinquishment requirements, applies in relation to the emerging technologies offset program as if a reference to the emissions-intensive trade-exposed assistance program was a reference to the emerging technologies offset program.
- (3) The number of Australian emissions units required to be relinquished by the person must not exceed the number of units mentioned in paragraph (1)(a).

**173R Reporting requirement***Scope*

- (1) This section applies to a person if free Australian emissions units have been issued to the person in accordance with the emerging technologies offset program.

*Requirement*

- (2) The emerging technologies offset program may make provision for and in relation to requiring the person to give one or more written reports to the Authority.

**173S Record-keeping requirement***Scope*

- (1) This section applies to a person if free Australian emissions units have been issued to the person in accordance with the emerging technologies offset program.

*Requirement*

- (2) The emerging technologies offset program may make provision for and in relation to requiring the person to:
  - (a) make records of information specified in the program; and
  - (b) retain such a record, or a copy, for 5 years after the record was made.

**173T Other matters**

- (1) The emerging technologies offset program may make provision for and in relation to the following matters:
  - (a) applications for free Australian emissions units;
  - (b) the approval by the Authority of a form for such an application;
  - (c) information that must accompany such an application;
  - (d) documents that must accompany such an application;
  - (e) the method of calculating the number of free Australian emissions units to be issued to a person in accordance with the program.
- (2) The emerging technologies offset program may provide that an application for free Australian emissions units must be accompanied by a prescribed report.
- (3) The emerging technologies offset program may provide for verification by statutory declaration of statements in applications for free Australian emissions units.

**173U Ancillary or incidental provisions**

The emerging technologies offset program may contain ancillary or incidental provisions.

### **Division 3—Compliance with reporting and record-keeping requirements**

#### **173V Compliance with reporting and record-keeping requirements**

##### *Reporting requirements*

- (1) If a person is subject to a requirement under the emerging technologies offset program to give a report to the Authority, the person must comply with that requirement.

##### *Record-keeping requirements*

- (2) If a person is subject to a requirement under the emerging technologies offset program to:
- (a) make a record of information; or
  - (b) retain such a record or a copy;
- the person must comply with that requirement.

##### *Ancillary contraventions*

- (3) A person must not:
- (a) aid, abet, counsel or procure a contravention of subsection (1) or (2); or
  - (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1) or (2); or
  - (c) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of subsection (1) or (2); or
  - (d) conspire with others to effect a contravention of subsection (1) or (2).

##### *Civil penalty provisions*

- (4) Subsections (1), (2) and (3) are *civil penalty provisions*.

Note: Part 21 provides for pecuniary penalties for breaches of civil penalty provisions.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Cormann, also on behalf of Senators Cash, Back, Eggleston and Adams, moved the following amendment:

Page 214 (after line 3), at the end of Part 8, add:

#### **Division 5—Modified formula for activities using a different type of feedstock**

##### **173D Requirements for the emissions-intensive trade-exposed assistance program**

The emissions-intensive trade-exposed assistance program must provide that a modified formula apply for the issue of free Australian emission units in respect of a facility that engages in an activity that is within a minority group in an industry based on the type of feedstock it uses, in accordance with this Division.

**173E Interpretation**

In this Division:

**general EITE formula** means the formula for working out the number of free Australian emissions units to be issued to an applicant in respect of an emissions-intensive trade-exposed activity carried on during a specified period.

**173F Application**

- (1) The applicant may apply to the Authority:
  - (a) for a facility existing before 1 January 2011, no later than 1 July 2011; or
  - (b) for a facility which comes into existence on or after 1 January 2011, within 6 months of the commencement of construction of the facility;
 for the Authority to issue a certificate (a **varied feedstock certificate**) modifying the general EITE formula for:
  - (c) the facility specified in the certificate; and
  - (d) the emissions-intensive trade-exposed activity carried on at the facility.
- (2) The application must be accompanied by:
  - (a) a statement of the definition of the activity in respect of which the application is made, including details of:
    - (i) a description of the defined activity; and
    - (ii) exclusions such as sub-activities or elements of production; and
    - (iii) any other information requested by the Authority;
  - (b) a statement, evidence and details of the type of feedstock the applicant activity uses;
  - (c) a statement of the type of feedstock the rest of the entities carrying out the same activity as the applicant activity use;
  - (d) a statement evidencing that the applicant's activity is within a minority group based on the type of feedstock it uses. For this purpose, the facility forms part of a **minority** if:
    - (i) less than 20% of the total participants undertaking the same defined activity in Australia as the applicant are using an alternative feedstock to natural gas; or
    - (ii) less than 50% of the total participants in Australia, but no more than 3 participants, undertaking the same defined activity as the applicant use an alternative feedstock to natural gas,
  - (e) international evidence on the weighted average emissions per unit of production, pricing and trade across all of the possible feedstock types used in relation to the applicant's activity, including natural gas feedstock;
  - (f) in relation to paragraph (e), a statement from an independent expert specifying:
    - (i) the scale and scope of international data available; and
    - (ii) how representative the evidence in paragraph (e) is of world production for that activity; and



- (iii) the consistency of data with the activity definitions; and
  - (iv) the existence of knowledge gaps in the evidence and information; and
  - (v) the existence of other evidence and information which may be useful in determining the efficiency of Australian producers with that of international counterparts, including information relating to energy or electricity intensity;
- (g) Australian evidence from an independent expert on the emissions per unit of production, pricing and trade of the applicant's type of feedstock for its activity;
  - (h) a statement evidencing that a Department of Climate Change registered assurance provider has been engaged;
  - (i) an explanation of how the modification, if permitted, will impact upon the applicant;
  - (j) an explanation of how the modification, if permitted, will impact upon the general EITE formula;
  - (k) a statement of what the baseline level of direct emissions per unit for the production of the relevant product should be and the calculations from which it was derived; and
  - (l) a statement evidencing that the baseline level of direct emissions in paragraph (k) will meet the expected carbon cost exposure of that feedstock.
- (3) The Authority must:
- (a) prepare a draft varied feedstock certificate in respect of the applicant's facility, which sets out a new baseline level of direct emissions per unit which reflects the weighted average emissions per unit across all of the possible feedstock types in relation to the applicant's activity; and
  - (b) give a copy of the draft certificate to the applicant; and
  - (c) notify the applicant, in writing, of the reasons why it has prepared the draft certificate; and
  - (d) invite the applicant to comment about the draft certificate within 30 days after the date of the invitation.
- (4) The invitation is not an undertaking or guarantee that the Authority will make a particular decision on the application.
- (5) If, after considering any comments about the draft certificate received in accordance with subsection (3), the Authority is satisfied that it is appropriate to issue a varied feedstock certificate, the Authority must issue a certificate which sets out, in respect of the applicant's facility, a new baseline level of direct emissions per unit.
- (6) On issuing the varied feedstock certificate under subsection (5), the Authority must also notify each member of the minority to which the varied feedstock certificate relates that the new baseline level of direct emissions per unit of production applies to each member of minority.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Cormann, also on behalf of Senators Cash, Back, Eggleston and Adams, moved the following amendment:

Page 214 (after line 3), at the end of Part 8, add:

**Division 6—Issue of additional free Australian emissions units in respect of carbon capture and storage**

**173G Object of Division**

The object of this Division is to provide financial incentives for early investment in carbon capture and storage plant and equipment in relation to eligible assets. It does so by providing limited transitional assistance in respect of investment in carbon capture and storage plant and equipment in relation to eligible assets during the period up to and including the financial year 2024–25.

**173H Interpretation**

In this Division:

*carbon capture and compression* means the capture, compression and, where necessary, conditioning of emissions, prior to the transportation of emissions to a storage site capable of capturing and compressing emissions which are at least:

- (a) 99% pure carbon dioxide; and
- (b) 1.0 barg.

*carbon capture and storage project* means a project to construct and commission new carbon capture and compression equipment. For this purpose, it is immaterial whether the project has been completed.

*carbon capture and storage ready assistance* means assistance under this Division.

*coal gasification* means a manufacturing process that converts coal to a synthesis gas (syngas, which is mainly carbon monoxide and hydrogen), which can be further processed to produce chemicals, fertilizers, liquid fuels, hydrogen, and electricity; coal gasification is not combustion, but rather partial oxidation, meaning limited oxidant is added.

*EITE emission units*, in respect of a facility, means the number of free Australian emissions units issued to a person in respect of the facility under the provisions of the emissions-intensive trade-exposed assistance program, other than this Division.

**173I Issue of free Australian emissions units in respect of carbon capture and storage**

- (1) The emissions-intensive trade-exposed assistance program must provide for the issue of free Australian emissions units (*CCSR units*) in respect of a facility that:
  - (a) undertakes emissions-intensive trade-exposed activities; and
  - (b) uses coal gasification technology; and
  - (c) is controlled or operated by persons that have invested, or stand ready to invest, in carbon capture and storage ready plant and equipment.

- (2) CCSR units must not be issued to a person under this Division unless the person:
  - (a) meets such requirements as are specified in the emissions-intensive trade-exposed assistance program; and
  - (b) has a Registry account.
- (3) The requirements of this Division are in addition to the requirements of the other Divisions in this Part.

**173J Requirements for assistance**

- (1) The Authority may issue a person with a certificate of eligibility for carbon capture and storage ready assistance if:
  - (a) the person has applied for the issue of free Australian emissions units under the emissions-intensive trade-exposed assistance program; and
  - (b) subsections (2) to (6) apply in respect of that application.
- (2) The facility (or facilities) to which the application relates uses (or use) coal gasification equipment.
- (3) In relation to one or more facilities to which an application relates, as at 1 June 2011:
  - (a) carbon capture and compression plant and equipment is installed at the facility; or
  - (b) a carbon capture and storage project is in existence but has not been completed and the project is fully committed by the project proponent, having regard to the following matters:
    - (i) the project proponent's rights to land for the construction of the project;
    - (ii) whether contracts for the supply and construction of the project's major plant or equipment (including contract provisions for project cancellations) were executed;
    - (iii) the status of all planning and construction approvals and licences necessary for the commencement of construction of the project (including completed and approved environmental impact statements);
    - (iv) the level of commitment to financing arrangements for the project;
    - (v) whether project construction has commenced;
    - (vi) whether a firm date had been set for project construction to commence.
- (4) The applicant has not obtained or cannot reasonably obtain, on reasonable economic terms, an off take arrangement or storage option for the captured, compressed and conditioned carbon during the financial years up to and including 2024–25.
- (5) The applicant must provide the Authority with a report:
  - (a) setting out the amount or volume of carbon which is reasonably likely to be captured by the carbon capture and compression plant and equipment in each year; and
  - (b) the date of installation of the carbon capture and compression plant and equipment at the facility; and

- (c) the technical specifications of the carbon capture and compression plant and equipment at the facility; and
  - (d) whether the applicant considers that the carbon capture and compression equipment at the facility meets the requirements of this Division.
- (6) A report complies with this subsection if:
- (a) the report is prepared by a person who has appropriate engineering qualifications; and
  - (b) the report sets out the person's estimate of the carbon capture and storage capability of the plant and equipment of the facility; and
  - (c) the person does not have an interest, pecuniary or otherwise, in the outcome of the application.

**173K Further information**

- (1) The Authority may, by written notice given to an applicant, require the applicant to give the Authority, within the period specified in the notice, further information in connection with the application.
- (2) If the applicant breaches the requirement, the Authority may, by written notice given to the applicant:
  - (a) refuse to consider the application; or
  - (b) refuse to take any action, or any further action, in relation to the application.

**173L Issue of certificate of eligibility for carbon capture and storage ready assistance**

*Scope*

- (1) This section applies to a facility if:
  - (a) an application for the issue of free Australian emissions units under the emissions-intensive trade-exposed assistance program has been made in respect of the facility; and
  - (b) subsections 173J(2) to (6) apply in respect of that application.

*Issue of certificate*

- (2) After considering the application, the Authority may issue a certificate of eligibility for carbon capture and storage ready assistance in respect of the carbon capture and storage project.
- (3) A certificate of eligibility for carbon capture and storage ready assistance must state that a specified number is the number of units available for issue as CCSR units in respect of the facility, for the purposes of subsection 173M(3).

*Timing*

- (4) The Authority must take all reasonable steps to ensure that a decision is made on the application:
  - (a) if the Authority requires the applicant to give further information under subsection 173K(1) in relation to the application—within 90 days after the applicant gave the Authority the information; or
  - (b) otherwise—within 90 days after the application was made.

*Refusal*

- (5) If the Authority decides to refuse to issue a certificate of eligibility for carbon capture and storage ready assistance in respect of the facility, the Authority must give written notice of the decision to the applicant.

*Publication of copy of certificate*

- (6) As soon as practicable after issuing a certificate of eligibility for carbon capture and storage ready assistance in respect of the facility, the Authority must publish a copy of the certificate on its website.

**173M Amount of free units to be issued***Scope*

- (1) This section applies to a facility if a certificate of eligibility for carbon capture and storage ready assistance is in force in respect of the facility.

*Issue of free units*

- (2) On 1 September in each eligible financial year beginning from 1 July 2011 to 1 July 2024, the Authority must issue CCSR units in respect of the facility in accordance with this section.
- (3) The number of CCSR units to be issued in respect of a facility in each eligible financial year must be the lesser of:
- the number of units available; and
  - number of units capable of being allocated;

where:

***number of units available*** is the number of Australian emissions units that represents the carbon dioxide equivalence of the greenhouse gases capable of being captured by the carbon capture and compression plant and equipment installed at the facility.

***number of units capable of being allocated*** is the number of CCSR units which, if added to the EITE emissions units, would cause the total number of free Australian emission units issued to a person in respect of the facility to equal the number of units which represents the percentage amount set out for that year in the following table:

<b>Financial year</b>	<b>Percentage of free Australian emissions units against actual emissions in each financial year (including global recession buffer)</b>
2011–12	94.5%
2012–13	93.2%
2013–14	92.1%
2014–15	90.8%
2015–16	89.7%
2016–17	84.3% (no global recession buffer applies in this financial year)

2017–18	83.2% (no global recession buffer applies in this financial year)
2018–19	82.1% (no global recession buffer applies in this financial year)
2019–20	81.1% (no global recession buffer applies in this financial year)
2020–21	80.0% (no global recession buffer applies in this financial year)
2022–23	78.7% (no global recession buffer applies in this financial year)
2023–24	77.4% (no global recession buffer applies in this financial year)
2024–25	76.1% (no global recession buffer applies in this financial year)

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were debated and agreed to:

Clause 175, page 215 (line 19), omit “4 financial years”, substitute “9 financial years”.

Clause 175, page 215 (lines 21 to 24), omit the dot-point beginning with “If a windfall gain declaration is in force”, substitute:

- If a windfall gain declaration is in force in relation to a generation asset, the Minister may determine that the number of free units to be issued in respect of the generation asset for the financial years beginning on 1 July 2018, 1 July 2019 and 1 July 2020 is to be halved.

Clause 176, page 216 (after line 20), after paragraph (2)(e), insert:

- (f) 1 September in the eligible financial year beginning on 1 July 2016;
- (g) 1 September in the eligible financial year beginning on 1 July 2017;
- (h) 1 September in the eligible financial year beginning on 1 July 2018;
- (i) 1 September in the eligible financial year beginning on 1 July 2019;

- (j) 1 September in the eligible financial year beginning on 1 July 2020;

Clause 176, page 217 (before line 2), before paragraph (a) of the definition of *generation assistance limit for that eligible financial year*, insert:

- (aa) if that eligible financial year begins on 1 July 2011—26,140,000;  
or
- (ab) if that eligible financial year begins on 1 July 2012—26,140,000;  
or

Clause 176, page 217 (line 4), omit paragraph (b) of the definition of *generation assistance limit for that eligible financial year*, substitute:

- (b) if that eligible financial year begins on 1 July 2014—26,140,000;  
or
- (c) if that eligible financial year begins on 1 July 2015—26,140,000;  
or
- (d) if that eligible financial year begins on 1 July 2016—19,600,000;  
or
- (e) if that eligible financial year begins on 1 July 2017—19,600,000;  
or
- (f) if that eligible financial year begins on 1 July 2018—19,600,000;  
or
- (g) if that eligible financial year begins on 1 July 2019—19,600,000;  
or
- (h) if that eligible financial year begins on 1 July 2020—19,600,000.

Heading to clause 183, page 228 (line 2), omit “**No assistance for 2014-2015 or 2015-2016**”, substitute “**Reduced assistance for 2018-2019, 2019-2020 and 2020-2021**”.

Clause 183, page 228 (lines 4 to 9), omit subclause (1), substitute:

- (1) The Minister may, before 1 August 2018, by writing, determine that the number of free Australian emissions units that:
  - (a) have a vintage year of:
    - (i) the eligible financial year beginning on 1 July 2018; or
    - (ii) the eligible financial year beginning on 1 July 2019; or
    - (iii) the eligible financial year beginning on 1 July 2020; and
  - (b) are to be issued in accordance with section 176 in respect of a specified generation asset;
 is to be reduced by 50%.

Clause 184, page 228 (line 21), after “Minister has made”, insert “, or purportedly made,”.

Clause 184, page 229 (line 29) to page 230 (line 10), omit subclauses (2) to (4), substitute:

*Revocation of determination*

- (2) The Minister must declare, in writing, that this Act has effect as if the determination made, or purportedly made, under subsection 183(1) is revoked.
- (3) A declaration under subsection (2) is not a legislative instrument.

Page 230 (before line 11), before clause 185, insert:

**184A Revocation of Ministerial determination—issue of free Australian emissions units**

*Scope*

- (1) This section applies if:
- (a) the Minister has made, or purportedly made, a determination under subsection 183(1) in relation to a generation asset; and
  - (b) as a result of the subsection 183(1) determination, a reduced number of free Australian emissions units have been issued to a person on a particular day in respect of the generation asset; and
  - (c) after the issue of those units, the Minister has made a declaration under subsection 184(2) in relation to the subsection 183(1) determination.

*Issue of free Australian emissions units*

- (2) On the 10th business day after the day on which the subsection 184(2) declaration was made, the Authority must issue to the person, in respect of the generation asset, a number of free Australian emissions units that is equal to the reduced number mentioned in paragraph (1)(b).
- (3) Free Australian emissions units issued in an eligible financial year in accordance with subsection (2) are to have a vintage year of the eligible financial year.

*Registry account*

- (4) The Authority must not issue a free Australian emissions unit to the person in accordance with subsection (2) unless the person has a Registry account.

*Other provisions*

- (5) Subsection (2) has effect subject to sections 185 and 188.

Note 1: Section 185 deals with windfall gains.

Note 2: Section 188 deals with power system reliability.

*No double entitlement*

- (6) If free Australian emissions units have been, or are to be, issued to the person in accordance with subsection (2) of this section, subsection 176(2) has effect, in relation to the requirement to issue free Australian emissions units on the day mentioned in paragraph (1)(b) of this section in respect of the generation asset, as if:
- (a) the subsection 184(2) declaration had never been made; and
  - (b) the relevant conditions set out in paragraph 184(1)(a), (b), (c) or (d) had never been satisfied; and
  - (c) in the case of a subsection 183(1) determination that was purportedly made—the determination had been validly made.

Clause 185, page 230 (line 14), omit “1 July 2013”, substitute “1 July 2017”.

Clause 185, page 230 (line 18), omit “30 September 2013”, substitute “30 September 2017”.

Clause 185, page 231 (line 5), omit “1 July 2014”, substitute “1 July 2018”.

Clause 185, page 231 (line 6), omit “1 July 2015;”, substitute “1 July 2019; or”.



Clause 185, page 231 (after line 6), after paragraph (4)(b), insert:

- (c) the eligible financial year beginning on 1 July 2020;

Clause 186, page 231 (line 17), omit “1 April 2014”, substitute “1 April 2018”.

Clause 187, page 233 (after line 28), after subparagraph (3)(a)(iii), insert:

- (iv) the eligible financial year beginning on 1 July 2014;  
 (v) the eligible financial year beginning on 1 July 2015;  
 (vi) the eligible financial year beginning on 1 July 2016;  
 (vii) the eligible financial year beginning on 1 July 2017;

Clause 187, page 233 (line 32), omit “a vintage year of”, substitute “the following vintage years”.

Clause 187, page 234 (line 1), omit “1 July 2014”, substitute “1 July 2018”.

Clause 187, page 234 (line 2), omit “1 July 2015”, substitute “1 July 2019”.

Clause 187, page 234 (after line 2), after subparagraph (3)(b)(ii), insert:

- (iii) the eligible financial year beginning on 1 July 2020;

Clause 187, page 236 (line 27), omit “1 April 2013”, substitute “1 January 2017”.

Clause 187, page 236 (lines 28 and 29), omit “1 July 2013”, substitute “1 April 2017”.

Page 242 (after line 31), at the end of Part 9, add:

**189C Intermediary registered as a generator**

If:

- (a) a person (the *first person*) owns, controls or operates a generation complex; and  
 (b) under a law of the Commonwealth, a State or Territory relating to the regulation of energy markets, the first person is exempt from the requirement under that law to be registered as a generator in respect of the generation complex; and  
 (c) the first person is exempt because another person (the *intermediary*) is registered under that law as a generator in respect of the generation complex;

the intermediary is taken, for the purposes of this Division, to be a person who controls the generation complex.

Senator Cormann, also on behalf of Senators Cash, Back, Eggleston and Adams, moved the following amendments together by leave:

Page 216 (line 28), after “section 182”, insert “and 182A”.

Heading to clause 182, page 225 (line 1), at the end of the heading, add “**in the National Energy Market**”.

Clause 182, page 225 (line 4), after “asset”, insert “in the National Energy Market”.

Page 227 (after line 11), at the end of Division 3, add:

**182A Annual assistance factor in the Western Electricity Market**

- (1) The annual assistance factor to be specified in a certificate of eligibility for coal-fired generation assistance in respect of a generation asset in the Western Electricity Market is the Authority’s reasonable estimate of the number worked out to 3 decimal places using the following formula:

Historical energy x (Emissions intensity – 0.7)

where:

**emissions intensity** has the meaning given by whichever of subsection (2), (3), (4) or (6) is applicable.

**historical energy** means:

- (a) if the generation asset is a generation complex that entered service on or before 1 July 2004—the total number of gigawatt hours of electricity generated by the generation complex during the period beginning on 1 July 2004 and ending on 30 June 2007, as measured at all generator terminals of the generation complex; or
- (b) if the generation asset is a generation complex that entered service after 1 July 2004—21.024 multiplied by the number of megawatts in the nameplate rating of the generation complex as at the day the generation complex entered service; or
- (c) if the generation asset is a generation complex project—21.024 multiplied by the number of megawatts in the proposed nameplate rating of the proposed generation complex, worked out as at the start of 3 June 2007.

**Emissions intensity**

- (2) For the purposes of subsection (1), the **emissions intensity** of a generation complex that entered service on or before 1 July 2004 is the number worked out to 3 decimal places using the formula:

$$\frac{\text{Carbon dioxide equivalence of emissions}}{\text{Gigawatt hours of electricity generated}}$$

where:

**carbon dioxide equivalence of emissions** means the total number of kilotonnes of the carbon dioxide equivalence of the greenhouse gases emitted from the combustion of fuel in the generation complex for the purposes of the generation of electricity during the period beginning on 1 July 2004 and ending on 30 June 2007.

**gigawatt hours of electricity generated** means the total number of gigawatt hours of electricity generated by the generation complex during the period beginning on 1 July 2004 and ending on 30 June 2007, as measured at all generator terminals of the generation complex.

- (3) However, the **emissions intensity** of a generation complex that entered service on or before 1 July 2004 is taken to be 0.7 if the number worked out to 3 decimal places using the formula in subsection (2) is less than 0.7.

- (4) For the purposes of subsection (1), the *emissions intensity* of a generation asset not covered by subsection (2) is the number that, in the opinion of the Authority, should be treated as the emissions intensity of the generation asset, having regard to the following matters:
- (a) any documents relating to the design of the generation asset;
  - (b) any contracts for the supply of fuel for combustion in the generation asset for the purposes of the generation of electricity;
  - (c) if the generation asset is a generation complex that has entered service—the number worked out to 3 decimal places using the formula set out in subsection (5);
  - (d) the report mentioned in paragraph 178(1)(f);
  - (e) such other matters (if any) as the Authority considers relevant.
- (5) The formula mentioned in paragraph (4)(c) is:

$$\frac{\text{Carbon dioxide equivalence of emissions}}{\text{Gigawatt hours of electricity generated}}$$

where:

*carbon dioxide equivalence of emissions* means the total number of kilotonnes of the carbon dioxide equivalence of the greenhouse gases emitted from the combustion of fuel in the generation complex for the purposes of the generation of electricity during the period when the generation complex was in service.

*gigawatt hours of electricity generated* means the number of gigawatt hours of electricity generated by the generation complex during the period when the generation complex was in service.

- (6) However, the *emissions intensity* of a generation asset not covered by subsection (2) is taken to be 0.7 if the number worked out under subsection (4) is less than 0.7.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were debated and agreed to:

Clause 198, page 256 (line 3), before “A person”, insert “(1)”.

Clause 198, page 256 (after line 4), at the end of the clause, add:

- (2) A person is not entitled to make an application before 1 July 2010.

Clause 205, page 262 (line 4), before “A person”, insert “(1)”.

Clause 205, page 262 (after line 5), at the end of the clause, add:

- (2) A person is not entitled to make an application before 1 July 2010.

On the motion of Senator Wong the following amendments, taken together by leave, were agreed to:

Clause 5, page 10 (after line 18), after the definition of *Crown land*, insert:

***Crown lands Minister:***

- (a) in relation to a State—means the Minister of the State who, under the regulations, is taken to be the Crown lands Minister of the State; or
- (b) in relation to a Territory—means the Minister of the Territory who, under the regulations, is taken to be the Crown lands Minister of the Territory.

Clause 5, page 23 (lines 3 to 8), omit the definition of *principal State Minister*.

Clause 5, page 23 (lines 9 to 14), omit the definition of *principal Territory Minister*.

Clause 209, page 264 (lines 22 and 23), omit “principal State Minister of the State, or the principal Territory Minister of the Territory, as the case requires,” substitute “Crown lands Minister of the State or Territory”.

Clause 212, page 269 (lines 4 and 5), omit “principal State Minister of the State, or the principal Territory Minister of the Territory, as the case requires,” substitute “Crown lands Minister of the State or Territory”.

Clause 241B, page 326 (lines 9 to 11), omit “Minister of the State or Territory who, under the regulations, is taken to be the Crown lands Minister of the State or Territory”, substitute “Crown lands Minister of the State or Territory”.

On the motion of Senator Wong the following amendment was agreed to:

Clause 278, page 360 (lines 21 to 32), omit the clause, substitute:

**277A Publication of concise description of the characteristics of Australian emissions units**

The Authority must:

- (a) before 31 December 2010, publish on its website a statement setting out a concise description of the characteristics of Australian emissions units; and
- (b) keep that statement up-to-date.

**278 Publication of concise description of the characteristics of eligible international emissions units**

*Kyoto units*

(1) The Authority must:

- (a) within 30 days after the commencement of this section, publish on its website a statement setting out a concise description of the characteristics of each of the following types of eligible international emissions units:
  - (i) certified emission reductions (other than a temporary certified emission reduction or a long-term certified emission reduction);
  - (ii) emission reduction units;
  - (iii) removal units; and
- (b) keep that statement up-to-date.

- (2) The Authority must:
- (a) within 30 days after the commencement of regulations made for the purposes of paragraph (d) of the definition of *eligible international emissions unit* in section 5, publish on its website a statement setting out a concise description of the characteristics of units prescribed by those regulations; and
  - (b) keep that statement up-to-date.

*Non-Kyoto units*

- (3) The Authority must:
- (a) within 30 days after the commencement of regulations made for the purposes of paragraph (a) of the definition of *non-Kyoto international emissions unit* in section 5, publish on its website a statement setting out a concise description of the characteristics of units prescribed by those regulations; and
  - (b) keep that statement up-to-date.
- (4) The Authority must:
- (a) within 30 days after the commencement of regulations made for the purposes of paragraph (b) of the definition of *non-Kyoto international emissions unit* in section 5, publish on its website a statement setting out a concise description of the characteristics of units prescribed by those regulations; and
  - (b) keep that statement up-to-date.

Senator Milne moved the following amendments together by leave:

Clause 353, page 439 (lines 22 and 23), omit “before the end of 30 June 2014”, substitute “by the end of 2 years after the day on which this Act receives the Royal Assent”.

Clause 353, page 439 (lines 24 to 28), omit subclause (3), substitute:

- (3) Each subsequent review must be completed within:
- (a) 2 years after the last day on which a copy of a statement setting out the Commonwealth Government’s response to the recommendations of the previous review was tabled in a House of the Parliament under paragraph 354(6)(b); or
  - (b) 6 months of any significant changes or developments in a relevant international treaty or relevant scientific knowledge.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were debated and agreed to:

Heading to clause 355, page 442 (line 3), at the end of the heading, add “—**matters specified by Minister**”.

Page 442 (after line 22), after clause 355, insert:

**355A Special review of carbon pollution reduction scheme to be conducted by an expert advisory committee**

*Scope*

- (1) This section applies if:

- (a) after the commencement of this section, a new multilateral international agreement is signed on behalf of Australia; and
- (b) the agreement relates to climate change; and
- (c) either:
  - (i) the agreement imposes obligations on Australia to take action to reduce greenhouse gas emissions; or
  - (ii) the agreement is specified in an instrument made by the Minister for the purposes of this subparagraph.

*Special review of carbon pollution reduction scheme*

- (2) As soon as practicable after the agreement is so signed, an expert advisory committee is to conduct a review of the implications of the agreement for the carbon pollution reduction scheme.

Note: Expert advisory committees are established under section 357.

*Consultation*

- (3) In conducting a review, an expert advisory committee must make provision for public consultation.

*Relevant matters*

- (4) In conducting a review, an expert advisory committee must have regard to:
  - (a) any policies of the Commonwealth Government notified to the expert advisory committee by the Minister; and
  - (b) such other matters as the expert advisory committee considers relevant.

Clause 356, page 442 (line 25), after “section 355”, insert “or 355A”.

Senator Nash moved the following amendment:

Page 451 (after line 23), at the end of Part 25, add:

**Division 5—Auditor-General’s report**

**373A Additional function and report of the Auditor-General**

- (1) The following is an additional function of the Auditor-General:
 

Assessing the adequacy, reliability and comprehensiveness of Australian Government statistical and analytical reporting on the economic and environmental costs and benefits of the CPRS, including but not limited to:

  - (a) direct outlays;
  - (b) indirect outlays (tax expenditures);
  - (c) agency reports (by agencies including, but not limited to, the Australian Taxation Office, the Australian Bureau of Agricultural and Resource Economics and the Australian Bureau of Statistics);
  - (d) the intergenerational report; and
  - (e) Council of Australian Governments reports.
- (2) That within 4 years of Royal Assent, or by 2014, whichever is the earlier, the Auditor-General present a report to each House of the Parliament assessing the matters specified in subsection (1).

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Wong the following amendment was agreed to:

Page 453 (after line 11), after clause 374A, insert:

**374B Authority's power to require further information**

*Applications*

- (1) If:
- (a) a person makes an application to the Authority under this Act; and
  - (b) the Authority exercises a power, under another provision of this Act, to require the applicant to give the Authority further information in connection with the application;
- the Authority:
- (c) must ensure that the further information is relevant to the matter to which the application relates; and
  - (d) must ensure that the power is exercised in a reasonable way.

*Requests*

- (2) If:
- (a) a person makes a request to the Authority under this Act; and
  - (b) the Authority exercises a power, under another provision of this Act, to require the person to give the Authority further information in connection with the request;
- the Authority:
- (c) must ensure that the further information is relevant to the matter to which the request relates; and
  - (d) must ensure that the power is exercised in a reasonable way.

Bill, as amended, agreed to.

**CARBON POLLUTION REDUCTION SCHEME (CONSEQUENTIAL AMENDMENTS)  
BILL 2009 [NO. 2]—**

Bill taken as a whole by leave.

Senator Milne moved the following amendments together by leave:

Clause 2, page 2 (after table item 7), insert:

7A. Schedule 1,	1 July 2012.	1 July 2012
Part 2A		

Schedule 1, page 56 (after line 3), after item 183, insert:

**183A Subsection 24(1A)**

Omit "This subsection is subject to subsection 25(3).".

Schedule 1, page 56 (after line 3), after item 183, insert:

**183B After subsection 24(1A)**

Insert:

- (1AAA) In addition to publishing the totals for the corporation's group, the Authority must also publish on the website, in the case of a facility under the operational control of a member of the group and the individual operation of which meets a threshold mentioned in paragraph 13(1)(d) for a financial year:

- (a) the greenhouse gas emissions that are scope 1 emissions; and
- (b) the greenhouse gas emissions that are scope 2 emissions; and
- (c) the energy consumption;

reported in relation to the facility under Part 3 or 3D.

(1AAB) In addition to publishing the matters mentioned in subsection (1AAA), the Authority may also publish on the website:

- (a) the methods mentioned in paragraph 19(6)(b) or 22E(2)(b) that were used to measure the values for the facility concerned; and
- (b) the rating given to each of those methods under the determination under subsection 10(3).

Schedule 1, page 56 (after line 22), after item 184, insert:

**184A Subsection 24(1B)**

Repeal the subsection, substitute:

*Limitations*

(1B) The Authority must not publish information mentioned in:

- (a) subsection (1)—unless the corporation’s group meets a threshold mentioned in paragraph 13(1)(a) for the financial year covered by the report; or
- (b) subsection (1AAA)—unless the facility meets a threshold mentioned in paragraph 13(1)(d) for the financial year covered by the report.

Schedule 1, page 56 (after line 22), after item 184, insert:

**184B Subsection 24(1C)**

Repeal the subsection.

Schedule 1, page 56 (after line 22), after item 184, insert:

**184C Subsection 24(2)**

Omit “This subsection is subject to subsection 25(3).”.

Schedule 1, page 56 (after line 22), after item 184, insert:

**184D Subsection 24(3)**

Omit “This subsection is subject to subsection 25(3).”.

Schedule 1, items 186 and 187, page 56 (lines 26 to 30), omit the items, substitute:

**186 Section 25**

Repeal the section.

Schedule 1, page 73 (after line 15), after Part 2, insert:

**Part 2A—Amendment relating to facility reporting threshold**

*National Greenhouse and Energy Reporting Act 2007*

**226A Subparagraph 13(1)(d)(i)**

Omit “25 kilotonnes”, substitute “10 kilotonnes”.

**226B Application**

To avoid doubt, the amendment of subparagraph 13(1)(d)(i) of the *National Greenhouse and Energy Reporting Act 2007* made by this Part applies in relation to a threshold for:



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

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Milne moved the following amendment:

Schedule 1, page 5 (after line 11), after item 5, insert:

**5A Section 9 (after paragraph (ma) of the definition of *managed investment scheme*)**

Insert:

- (mb) a scheme that relates to forestry operations of any kind;

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 57, page 10 (lines 19 and 20), omit the item, substitute:

**57 Paragraph 55(2)(d)**

Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

**57A Subsection 55(3)**

Omit “Greenhouse Energy and Data Officer”, substitute “Authority”.

Schedule 1, page 13 (after line 21), after item 77, insert:

**77A Paragraph 47(f)**

Omit “signed”, substitute “made”.

Schedule 1, page 14 (after line 8), after item 82, insert:

**82A Section 158**

Repeal the section.

**82B Paragraph 159(1)(b)**

Omit “the Regulator”, substitute “an official of the Authority”.

**82C Subsection 159(2)**

Omit “the Regulator” (first occurring), substitute “an official of the Authority”.

**82D Subsection 159(2)**

Omit “the Regulator” (second occurring), substitute “the Authority”.

**82E Subsections 159(3) and (4)**

Omit “the Regulator”, substitute “an official of the Authority”.

Schedule 1, item 83, page 14 (line 12), omit “and 132”, substitute “, 132 and 159”.

Schedule 1, page 18 (after line 17), after item 93, insert:

**93A Transitional—documents signed by the Renewable Energy Regulator**

- (1) Despite the repeal of section 158 of the *Renewable Energy (Electricity) Act 2000* by this Part, that section continues to apply, in relation to a person who held the office of the Renewable Energy Regulator at any time before the commencement of this item, as if that repeal had not happened.

- (2) Despite the amendments of section 159 of the *Renewable Energy (Electricity) Act 2000* made by this Part, that section continues to apply, in relation to documents or certificates signed by the Renewable Energy Regulator before the commencement of this item, as if those amendments had not been made.

Schedule 1, page 18 (after line 31), after item 94, insert:

**94A Transitional—employees of the Australian Climate Change Regulatory Authority**

*Transferring employees*

- (1) For the purposes of this item, a person is a *transferring employee* if:
- (a) the person was an APS employee in:
    - (i) the Department; or
    - (ii) the Office of the Renewable Energy Regulator; immediately before the transition time; and
  - (b) the person is covered by a determination that:
    - (i) is made under section 72 of the *Public Service Act 1999*; and
    - (ii) causes the person, at the transition time, to become an APS employee in the Australian Climate Change Regulatory Authority.
- (2) If:
- (a) a person is a transferring employee (other than an SES employee); and
  - (b) immediately before the transition time, the person's employment in the Department or the Office of the Renewable Energy Regulator, as the case may be, was covered by a designated agreement;
- then:
- (c) the designated agreement (as in force immediately before the transition time) covers the Commonwealth and the transferring employee in relation to Authority work; and
  - (d) while the designated agreement covers the Commonwealth and the transferring employee in relation to Authority work, no other enterprise agreement, modern award or award-based transitional instrument covers the transferring employee in relation to Authority work; and
  - (e) the designated agreement has effect after the transition time, in relation to the transferring employee's Authority work, as if it had been made with the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth; and
  - (f) if the transferring employee becomes an SES employee after the transition time—paragraphs (c), (d) and (e) cease to apply in relation to the transferring employee; and
  - (g) if an enterprise agreement is made after the transition time by the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth—paragraphs (c), (d) and (e) cease to apply in relation to the transferring employee when the enterprise agreement commences.

- (3) If:
- (a) a person is a transferring employee; and
  - (b) immediately before the transition time, the person's employment in the Department or the Office of the Renewable Energy Regulator, as the case may be, was covered by an AWA or pre-reform AWA;

the AWA or pre-reform AWA, as the case requires, has effect after the transition time, in relation to the transferring employee's Authority work, as if it had been made with the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth.

- (4) If:
- (a) a person is a transferring employee (other than an SES employee); and
  - (b) immediately before the transition time, the person's employment in the Department or the Office of the Renewable Energy Regulator, as the case may be, was covered by an AWA or pre-reform AWA; and
  - (c) at a time (the *cessation time*) during the period:
    - (i) beginning at the transition time; and
    - (ii) ending immediately before the commencement of an enterprise agreement made after the transition time by the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth;
 the AWA or pre-reform AWA ceases to cover the person's employment; and
  - (d) a designated agreement covers the Commonwealth because of subitem (2); and
  - (e) the designated agreement was made before the transition time by the Secretary of the Department on behalf of the Commonwealth;

then:

- (f) the designated agreement (as in force immediately before the transition time) covers the Commonwealth and the transferring employee in relation to Authority work; and
- (g) while the designated agreement covers the Commonwealth and the transferring employee in relation to Authority work, no other enterprise agreement, modern award or award-based transitional instrument covers the transferring employee in relation to Authority work; and
- (h) the designated agreement has effect after the cessation time, in relation to the transferring employee's Authority work, as if it had been made with the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth; and
- (i) if the transferring employee becomes an SES employee after the cessation time—paragraphs (f), (g) and (h) cease to apply in relation to the transferring employee; and

- (j) if an enterprise agreement is made after the transition time by the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth—paragraphs (f), (g) and (h) cease to apply in relation to the transferring employee when the enterprise agreement commences.

*New employees*

- (5) For the purposes of this item, a person is a *new employee* if:
  - (a) the person is an APS employee (other than an SES employee) in the Australian Climate Change Regulatory Authority; and
  - (b) the person is not a transferring employee.
- (6) If:
  - (a) a designated agreement covers the Commonwealth because of subitem (2); and
  - (b) the designated agreement was made before the transition time by the Secretary of the Department on behalf of the Commonwealth; and
  - (c) after the transition time, a person becomes a new employee;
 then:
  - (d) the designated agreement (as in force immediately before the transition time) covers the Commonwealth and the new employee in relation to Authority work; and
  - (e) while the designated agreement covers the Commonwealth and the new employee in relation to Authority work, no other enterprise agreement, modern award or award-based transitional instrument covers the new employee in relation to Authority work; and
  - (f) the designated agreement has effect after the transition time, in relation to the new employee's Authority work, as if it had been made with the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth; and
  - (g) if the new employee becomes an SES employee after the cessation time—paragraphs (d), (e) and (f) cease to apply in relation to the new employee; and
  - (h) if an enterprise agreement is made after the transition time by the Chair of the Australian Climate Change Regulatory Authority on behalf of the Commonwealth—paragraphs (d), (e) and (f) cease to apply in relation to the new employee when the enterprise agreement commences.

*Separate agreements*

- (7) If:
  - (a) under any or all of subitems (2), (4) and (6), a designated agreement covers the Commonwealth and one or more employees in relation to Authority work; and
  - (b) the designated agreement was made before the transition time by the Secretary of the Department on behalf of the Commonwealth;

the *Fair Work Act 2009* and the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* have effect after the transition time as if the following were separate agreements:

- (c) the designated agreement, in so far as it has the coverage mentioned in paragraph (a);
- (d) the designated agreement, in so far as it does not have the coverage mentioned in paragraph (a).

*Section 58 of the Fair Work Act 2009*

- (8) Paragraphs (2)(g), (4)(j) and (6)(h) have effect subject to section 58 of the *Fair Work Act 2009*.

*Definitions*

- (9) In this item:

**Authority work**, in relation to an employee, means work performed after the transition time by the employee in the Australian Climate Change Regulatory Authority.

**AWA** has the same meaning as in Schedule 7A to the *Workplace Relations Act 1996* as in force immediately before the commencement of Schedule 1 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

**award-based transitional instrument** has the same meaning as in Schedule 2 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

**designated agreement** means:

- (a) the *Department of Climate Change Collective Agreement 2009-2011*; or
- (b) the *Office of the Renewable Energy Regulator Collective Agreement 2006-2009*; or
- (c) an enterprise agreement.

**enterprise agreement** has the same meaning as in the *Fair Work Act 2009*.

**modern award** has the same meaning as in the *Fair Work Act 2009*.

**pre-reform AWA** has the same meaning as in Schedule 7 to the *Workplace Relations Act 1996* as in force immediately before the commencement of Schedule 1 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

**transition time** means the commencement of this item.

**94B Transitional—regulations relating to the transfer of APS employees to the Australian Climate Change Regulatory Authority**

The Governor-General may make regulations providing for matters of a transitional nature in relation to the transfer of APS employees from:

- (a) the Department; or
- (b) the Office of the Renewable Energy Regulator;

to the Australian Climate Change Regulatory Authority.

Schedule 1, item 159, page 36 (after line 27), after subsection (2A), insert:

- (2B) Regulations made for the purposes of paragraph (2A)(a) must not declare that an emission mentioned in paragraph 24(2)(a), (b), (c), (d), (e) or (f) of the *Carbon Pollution Reduction Scheme Act 2009* is a scope 1 emission covered by the carbon pollution reduction scheme.

Senator Milne moved the following amendment:

Schedule 2, page 76 (after line 17), after item 9A, insert:

**9B Subdivision 40-J**

Repeal the Subdivision.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Wong the following amendments, taken together by leave, were agreed to:

Schedule 2, item 19, page 83 (after line 30), after paragraph 420-15(3)(a), insert:

- (aa) Part 8A (coal mining) of that Act; or

Schedule 2, item 19, page 94 (line 9), omit “(emissions-intensive trade-exposed assistance program)”, substitute “(certain free Australian emissions units)”.

Schedule 2, item 19, page 96 (lines 11 to 13), omit subsection 420-55(6), substitute:

*Certain free Australian emissions units*

- (6) This section has effect subject to section 420-58 (certain free Australian emissions units).

Schedule 2, item 19, page 98 (lines 3 to 5), omit subsection 420-57(9), substitute:

*Certain free Australian emissions units*

- (9) This section has effect subject to section 420-58 (certain free Australian emissions units).

Schedule 2, item 19, page 98 (line 7), omit “**emissions-intensive trade-exposed assistance program**”, substitute “**certain free Australian emissions units**”.

Schedule 2, item 19, page 98 (lines 11 to 14), omit paragraph 420-58(1)(a), substitute:

(a) either:

- (i) it was issued to you in accordance with the emissions-intensive trade-exposed assistance program (within the meaning of the *Carbon Pollution Reduction Scheme Act 2009*); or

- (ii) it was issued to you in accordance with Part 8A (coal mining) of that Act; and

Schedule 2, item 19, page 100 (after line 8), after paragraph 420-65(3)(a), insert:

- (aa) Part 8A (coal mining) of that Act; or

Schedule 2, item 19, page 101 (after line 23), after paragraph 420-70(3)(a), insert:

- (aa) Part 8A (coal mining) of that Act; or

On the motion of Senator Wong the following amendments, taken together by leave, were agreed to:

Schedule 2, item 19, page 84 (after line 13), after subsection 420-15(5), insert:

- (5A) You cannot deduct under this section expenditure you incur in becoming the \*holder of an \*Australian emissions unit issued to you in accordance with the domestic offsets program (within the meaning of the *Carbon Pollution Reduction Scheme Act 2009*) unless you incur the expenditure in preparing or lodging an application under that program for free Australian emissions units.

Schedule 2, item 19, page 100 (after line 27), after subsection 420-65(5), insert:

- (5A) Subsections (1) and (2) do not affect the application of a provision of this Act outside this Division to expenditure you incur in becoming the \*holder of an \*Australian emissions unit issued to you in accordance with the domestic offsets program (within the meaning of the *Carbon Pollution Reduction Scheme Act 2009*) if you do not incur the expenditure in preparing or lodging an application under that program for free Australian emissions units.

Schedule 2, item 19, page 101 (line 27), omit “Act.”, substitute “Act; or”.

Schedule 2, item 19, page 101 (after line 27), at the end of subsection 420-70(3) (before the notes), add:

- (e) the domestic offsets program (within the meaning of that Act).

Bill, as amended, agreed to.

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**AUSTRALIAN CLIMATE CHANGE REGULATORY AUTHORITY BILL 2009 [No. 2]—**

Bill taken as a whole by leave.

On the motion of Senator Wong the following amendments, taken together by leave, were agreed to:

Clause 18, page 11 (line 7), omit “instruments.”, substitute “instruments;”.

Clause 18, page 11 (after line 7), at the end of subclause (2), add:

- (k) public administration.

Bill, as amended, agreed to.

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**CARBON POLLUTION REDUCTION SCHEME (CHARGES—CUSTOMS)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CHARGES—EXCISE)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CHARGES—GENERAL)  
BILL 2009 [No. 2]—**

Bills, taken together and as a whole by leave, agreed to.

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**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)  
BILL 2009 [No. 2]—**

Bill taken as a whole by leave.

On the motion of Senator Wong the following requests for amendments, taken together by leave, were agreed to:

That the House of Representatives be requested to make the following amendments:

Clause 6-1, page 10 (line 11), omit “or agriculture”, substitute “, agriculture or forestry”.

Clause 6-1, page 10 (lines 14 and 15), omit “or incidental agricultural activities”, substitute “, incidental agricultural activities or incidental forestry activities”.

Heading to clause 6-5, page 11 (lines 18 and 19), omit “**or agriculture**”, substitute “, **agriculture or forestry**”.

Clause 6-5, page 11 (line 28), omit “and”, substitute “or”.

Clause 6-5, page 11 (after line 28), at the end of paragraph 6-5(1)(c), add:  
(iii) \*forestry; and

Heading to clause 6-10, page 12 (line 6), omit “**or incidental agricultural activities**”, substitute “, **incidental agricultural activities or incidental forestry activities**”.

Clause 6-10, page 12 (line 16), omit “and”, substitute “or”.

Clause 6-10, page 12 (after line 16), at the end of paragraph 6-10(1)(d), add:  
(iii) \*incidental forestry activities; and

Clause 7-5, page 19 (table item 1), omit “or agriculture”, substitute “, agriculture or forestry”.

Clause 7-5, page 19 (table item 2), omit “or incidental agricultural activities”, substitute “, incidental agricultural activities or incidental forestry activities”.

Clause 7-5, page 20 (table item 3), omit “or incidental agricultural activities”, substitute “, incidental agricultural activities or incidental forestry activities”.

Clause 13-1, page 33 (after line 29), after the definition of *fishing operations*, insert:

*forestry* has the same meaning as in the *Energy Grants (Credits) Scheme Act 2003*, but does not include an activity relating to \*carbon sequestration. For the purposes of this definition, disregard the repeal of that Act on 1 July 2012.

Clause 13-1, page 34 (after line 20), after the definition of *incidental fishing activities*, insert:

*incidental forestry activities* has the meaning given by the regulations.

Bill agreed to, subject to requests.

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**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)  
(CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]  
EXCISE TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)  
BILL 2009 [No. 2]  
CUSTOMS TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)  
BILL 2009 [No. 2]—**

Bills, taken together and as a whole by leave, agreed to.

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**CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD  
ASSISTANCE) BILL 2009 [No. 2]—**

Bill taken as a whole by leave.

On the motion of Senator Wong the following amendments and requests for amendments, taken together by leave, were debated and agreed to:

*Amendments:*

Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1      1 July 2011.

However, if section 3 of the *Carbon Pollution Reduction Scheme Act 2009* does not commence before or on 1 July 2011, the provision(s) do not commence at all.

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2A. Schedule 1A      Immediately after the commencement of Schedule 5 to the *Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Act 2009*.

However, if that Schedule does not commence, the provision(s) do not commence at all.

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2B. Schedule 2      1 July 2011.

However, if section 3 of the *Carbon Pollution Reduction Scheme Act 2009* does not commence before or on 1 July 2011, the provision(s) do not commence at all.

Clause 2, page 2 (after table item 5), insert:

5A. Schedule 3, Part 3      Immediately after the commencement of Schedule 5 to the *Veterans' Affairs and Other Legislation Amendment (Pension Reform) Act 2009*.

However, if the provision(s) covered by table item 3 do not commence, the provision(s) covered by this table item do not commence at all.

Page 19 (after line 15), after Schedule 1, insert:

## **Schedule 1A—Other Social Security Act amendments**

### ***Social Security Act 1991***

#### **1 Subsection 1061ZAAZ(2) (at the end of the definition of *adjusted taxable income*)**

Add:

; and (c) if the person (the *claimant*) was a member of a couple at the end of the year—the superannuation benefits (within the meaning of that Act) (if any) received by the person who was the claimant's partner at that time in relation to the income year to the extent to which those benefits are non-assessable non-exempt income (within the meaning of that Act).

#### **2 Subparagraph 1061ZAAZB(1)(g)(v)**

Omit "\$280", substitute "\$240".

#### **3 Subparagraph 1061ZAAZB(1)(h)(iv)**

Omit "\$385", substitute "\$330".

#### **4 Paragraph 1061ZAAZC(b)**

Omit "\$550", substitute "\$500".

#### **5 Paragraph 1206GI(a)**

Omit "1.8%", substitute "1.5%".

Note: The heading to section 1206GI is altered by omitting "1.8%" and substituting "1.5%".

#### **6 Section 1206GI (note)**

Repeal the note, substitute:

Note: The 1.5% increase includes the Carbon Pollution Reduction Scheme's estimated cost of living increase of 0.7% for the 2012-2013 financial year, which has also been brought forward. The change to the indexation factor on or after 20 March 2013 under section 1206GM takes account of this second brought forward increase.

#### **7 Subsection 1206GM(2) (definition of *brought forward indexation amount*)**

Omit "0.008", substitute "0.007".

**8 Subsection 1206GM(2) (example at the end of the definition of brought forward indexation amount)**

Omit “1.005”, substitute “1.004”.

**9 Subsection 1206GM(2) (example at the end of the definition of brought forward indexation amount)**

Omit “0.008”, substitute “0.007”.

**10 Subsection 1206GR(3) (paragraph (a) of the definition of CPRS amount)**

Omit “1.8%” (wherever occurring), substitute “1.5%”.

Note: The heading to section 1206GR is altered by omitting “1.8%” and substituting “1.5%”.

**11 Subsection 1206GR(3) (note at the end of the definition of CPRS amount)**

Repeal the note, substitute:

Note: The 1.5% increase includes the Carbon Pollution Reduction Scheme’s estimated cost of living increase of 0.7% for the 2012-2013 financial year, which has also been brought forward. Subsection 1206GS(2), and the change to the indexation factor, and living cost indexation factor, on or after 20 March 2013 under section 1206GS, take account of this second brought forward increase.

**12 Subsection 1206GS(1) (example)**

Omit “1.005”, substitute “1.004”.

**13 Subsection 1206GS(1) (example)**

Omit “0.008”, substitute “0.007”.

**14 Subsection 1206GS(3) (example)**

Omit “1.005”, substitute “1.004”.

**15 Subsection 1206GS(3) (example)**

Omit “0.008”, substitute “0.007”.

**16 Subsection 1206GS(4) (paragraph (b) of the definition of brought forward CPI indexation amount)**

Omit “0.008”, substitute “0.007”.

**17 Subsection 1206GS(4) (paragraph (b) of the definition of brought forward PBLCI indexation amount)**

Omit “0.008”, substitute “0.007”.

**18 Subsection 1206GU(3) (example)**

Omit “1.005”, substitute “1.004”.

Note: The heading to subsection 1206GU(2) is altered by omitting “1.8%” and substituting “1.5%”.

**19 Subsection 1206GU(3) (example)**

Omit “0.008”, substitute “0.007”.

**20 Subsection 1206GU(4) (definition of *brought forward CPI indexation amount*)**

Omit “0.008”, substitute “0.007”.

**21 Subsection 1206GU(4) (definition of *CPRS amount*)**

Omit “1.8%” (wherever occurring), substitute “1.5%”.

**22 Subsection 1206GU(4) (note at the end of the definition of *CPRS amount*)**

Repeal the note, substitute:

Note: The 1.5% increase includes the Carbon Pollution Reduction Scheme’s estimated cost of living increase of 0.7% for the 2012-2013 financial year, which has also been brought forward. The change to the indexation factor on or after 20 March 2013 under subsection (3) takes account of this second brought forward increase.

*Requests:*

That the House of Representatives be requested to make the following amendments:

Schedule 2, item 2, page 20 (line 17), omit “\$60,000”, substitute “\$58,000”.

Schedule 2, item 2, page 20 (line 28), omit “\$60,000”, substitute “\$58,000”.

On the motion of Senator Wong the following amendments, taken together by leave, were agreed to:

Schedule 2, item 2, page 21 (line 10), omit “\$680”, substitute “\$620”.

Schedule 2, item 2, page 21 (line 14), omit “\$680”, substitute “\$620”.

Schedule 2, item 2, page 21 (line 16), omit “\$680”, substitute “\$620”.

Schedule 2, item 7, page 23 (line 15), omit “1.4%”, substitute “1.1%”.

Schedule 2, item 7, page 23 (line 18), omit “0.014”, substitute “0.011”.

Schedule 2, item 7, page 23 (line 24), omit “1.4%”, substitute “1.1%”.

Schedule 2, item 7, page 23 (line 24), omit “1.8%”, substitute “1.5%”.

Schedule 2, item 7, page 23 (line 25), omit “1.4%”, substitute “1.1%”.

Schedule 2, item 7, page 23 (line 27), omit “0.8%”, substitute “0.7%”.

Schedule 2, item 7, page 23 (line 30), omit “4.8%”, substitute “4%”.

Schedule 2, item 7, page 23 (line 33), omit “0.048”, substitute “0.04”.

Schedule 2, item 7, page 24 (line 2), omit “4.8%”, substitute “4%”.

Schedule 2, item 7, page 24 (line 2), omit “5.2%”, substitute “4.4%”.

Schedule 2, item 7, page 24 (line 3), omit “4.8%”, substitute “4%”.

Schedule 2, item 7, page 24 (line 5), omit “0.8%”, substitute “0.7%”.

Schedule 2, item 7, page 24 (line 8), omit “4.5%”, substitute “3.8%”.

Schedule 2, item 7, page 24 (line 11), omit “0.045”, substitute “0.038”.

Schedule 2, item 7, page 24 (line 16), omit “4.5%”, substitute “3.8%”.

Schedule 2, item 7, page 24 (line 16), omit “4.9%”, substitute “4.2%”.

Schedule 2, item 7, page 24 (line 17), omit “4.5%”, substitute “3.8%”.

Schedule 2, item 7, page 24 (line 19), omit “0.8%”, substitute “0.7%”.

Schedule 2, item 7, page 24 (line 30), omit “0.008”, substitute “0.007”.

Schedule 2, item 7, page 24 (line 35), omit “1.005”, substitute “1.004”.

Schedule 2, item 7, page 24 (line 36), omit “0.008”, substitute “0.007”.

Schedule 3, page 32 (after line 20), at the end of the Schedule, add:

**Part 3—Amendments indirectly depending on main amendment**

***Veterans’ Entitlements Act 1986***

Note: This Part is to amend the *Veterans’ Entitlements Act 1986* as amended by Schedule 5 to the *Veterans’ Affairs and Other Legislation Amendment (Pension Reform) Act 2009*. That Schedule is to repeal and substitute the Division 5 of Part XII of the *Veterans’ Entitlements Act 1986* to be inserted in that Act by Part 1 of this Schedule.

**14 Paragraph 198S(a)**

Omit “1.8%”, substitute “1.5%”.

Note: The heading to section 198S is altered by omitting “1.8%” and substituting “1.5%”.

**15 Section 198S (note)**

Omit “1.8%”, substitute “1.5%”.

**16 Section 198S (note)**

Omit “0.8%”, substitute “0.7%”.

**17 Subsection 198V(1) (example)**

Omit “1.005”, substitute “1.004”.

**18 Subsection 198V(1) (example)**

Omit “0.008”, substitute “0.007”.

**19 Subsection 198V(2) (example)**

Omit “1.005”, substitute “1.004”.

**20 Subsection 198V(2) (example)**

Omit “0.008”, substitute “0.007”.

**21 Subsection 198V(3) (paragraph (b) of the definition of *brought forward CPI indexation amount*)**

Omit “0.008”, substitute “0.007”.

**22 Subsection 198V(3) (paragraph (b) of the definition of *brought forward PBLCI indexation amount*)**

Omit “0.008”, substitute “0.007”.

**23 Subsection 198W(1) (example)**

Omit “1.005”, substitute “1.004”.

**24 Subsection 198W(1) (example)**

Omit “0.008”, substitute “0.007”.

**25 Subsection 198W(2) (definition of *brought forward CPI indexation amount*)**

Omit “0.008”, substitute “0.007”.

**26 Subsection 198ZB(3) (paragraphs (a) and (b) of the definition of CPRS amount)**

Omit “1.8%”, substitute “1.5%”.

Note: The heading to section 198ZB is altered by omitting “1.8%” and substituting “1.5%”.

**27 Subsection 198ZB(3) (note at the end of the definition of CPRS amount)**

Omit “1.8%”, substitute “1.5%”.

**28 Subsection 198ZB(3) (note at the end of the definition of CPRS amount)**

Omit “0.8%”, substitute “0.7%”.

**29 Subsection 198ZC(1) (example)**

Omit “1.005”, substitute “1.004”.

**30 Subsection 198ZC(1) (example)**

Omit “0.008”, substitute “0.007”.

**31 Subsection 198ZC(3) (example)**

Omit “1.005”, substitute “1.004”.

**32 Subsection 198ZC(3) (example)**

Omit “0.008”, substitute “0.007”.

**33 Subsection 198ZC(4) (paragraph (b) of the definition of brought forward CPI indexation amount)**

Omit “0.008”, substitute “0.007”.

**34 Subsection 198ZC(4) (paragraph (b) of the definition of brought forward PBLCI indexation amount)**

Omit “0.008”, substitute “0.007”.

**35 Paragraph 198ZF(a)**

Omit “1.8%”, substitute “1.5%”.

Note: The heading to section 198ZF is altered by omitting “1.8%” and substituting “1.5%”.

**36 Section 198ZF (note)**

Omit “1.8%”, substitute “1.5%”.

**37 Section 198ZF (note)**

Omit “0.8%”, substitute “0.7%”.

**38 Subsection 198ZG(1) (example)**

Omit “1.005”, substitute “1.004”.

**39 Subsection 198ZG(1) (example)**

Omit “0.008”, substitute “0.007”.

**40 Subsection 198ZG(2) (example)**

Omit “1.005”, substitute “1.004”.

**41 Subsection 198ZG(2) (example)**

Omit “0.008”, substitute “0.007”.

**42 Subsection 198ZG(3) (paragraph (b) of the definition of *brought forward CPI indexation amount*)**

Omit “0.008”, substitute “0.007”.

**43 Subsection 198ZG(3) (paragraph (b) of the definition of *brought forward PBLCI indexation amount*)**

Omit “0.008”, substitute “0.007”.

Schedule 4, item 2, page 33 (line 20), omit “1.4%”, substitute “1.1%”.

Schedule 4, item 2, page 33 (line 25), omit “0.014”, substitute “0.011”.

Schedule 4, item 2, page 33 (line 26), omit “1.4%”, substitute “1.1%”.

Schedule 4, item 2, page 33 (line 26), omit “1.8%”, substitute “1.5%”.

Schedule 4, item 2, page 33 (line 27), omit “1.4%”, substitute “1.1%”.

Schedule 4, item 2, page 33 (line 29), omit “0.8%”, substitute “0.7%”.

Schedule 4, item 2, page 34 (line 10), omit “0.008”, substitute “0.007”.

Schedule 4, item 2, page 34 (line 15), omit “1.005”, substitute “1.004”.

Schedule 4, item 2, page 34 (line 16), omit “0.008”, substitute “0.007”.

Schedule 5, item 10, page 37 (line 8), omit “\$105”, substitute “\$90”.

Schedule 5, item 11, page 37 (line 15), omit “\$78,250”, substitute “\$77,250”.

Schedule 5, item 12, page 37 (line 17), omit “\$1,930”, substitute “\$1,890”.

Schedule 5, item 13, page 37 (line 21), omit “\$38,762”, substitute “\$38,514”.

Schedule 5, item 14, page 37 (line 24), omit “\$32,948”, substitute “\$32,737”.

Schedule 5, item 15, page 37 (line 26), omit “\$46,500”, substitute “\$46,000”.

Bill, as amended, agreed to, subject to requests.

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The following bills to be reported with amendments:

Carbon Pollution Reduction Scheme Bill 2009 [No. 2], Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 [No. 2] and Australian Climate Change Regulatory Authority Bill 2009 [No. 2];

the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] to be reported with requests;

the Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2] to be reported with amendments and requests; and

the remaining bills to be reported without amendments or requests.

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The President resumed the chair and the Chair of Committees (Senator Ferguson) reported accordingly.

Senator Wong moved—That the report from the committee be adopted.

The Leader of the Family First Party (Senator Fielding) moved the following amendment:

At the end of the motion, add “and, with reference to the Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and related bills:

- (1) The Senate calls on the Government to establish a Commission of Inquiry, to be jointly chaired by Professor Ross Garnaut and Professor Ian Plimer, to take evidence from Australian and international experts on the science surrounding the extent to which man made carbon dioxide emissions are the major driver of climate change and the likely effectiveness of the Carbon Pollution Reduction Scheme in reducing climate change, with a requirement that the commission table a report that includes the scientific arguments both for and against, by 3 May 2010.
- (2) There be laid on the table by the Productivity Commissioner, no later than 9 March 2010, a report of the Productivity Commission setting out the potential costs to the Australian economy of Australia committing to the targets contained in these bills before other major world economies (including China, USA, India and Russia) commit to at least the same emissions reduction targets, and before we know what those targets are. This report should also include the potential costs to the Australian economy if other major world economies do commit to lower emissions reduction targets.
- (3) There be laid on the table by the Productivity Commissioner, no later than 9 March 2010, a report of the Productivity Commission setting out viable alternative schemes to the CPRS, and the cost and benefits under those schemes of achieving the targets that are contained in the bills.
- (4) Further consideration of the bills be an order of the day for the day after the reports of these inquiries are presented”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

*Proposed reference to committee:* Senator Xenophon moved the following amendment in respect of the Carbon Pollution Reduction Scheme Bill 2009 [No. 2]:

At the end of the motion, add “and

- (a) the question of the adequacy of water entitlements in relation to the proposed domestic offsets program (government amendments on [sheet BE218]), land use and land use change under the Carbon Pollution Reduction Scheme be referred to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 2 February 2010; and
- (b) the committee consider draft regulations relating to this matter, which are to be provided to the committee by the Minister for Climate Change by 15 January 2009”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Main question put and passed.



Senator Wong moved—That these bills, except the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] and the Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2], be now read a third time.

Debate ensued.

*At 10 pm:* Debate was interrupted while Senator Joyce was speaking.

*Suspension of sitting:* The sitting of the Senate was suspended at 10 pm till 10 am, Wednesday, 2 December 2009.

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WEDNESDAY, 2 DECEMBER 2009

*At 10 am—*

The sitting of the Senate resumed.

16 **PRAYERS**

The President read prayers.

17 **CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CONSEQUENTIAL AMENDMENTS)  
BILL 2009 [No. 2]**

**AUSTRALIAN CLIMATE CHANGE REGULATORY AUTHORITY BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CHARGES—CUSTOMS)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CHARGES—EXCISE)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CHARGES—GENERAL)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)  
(CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]**

**EXCISE TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)  
BILL 2009 [No. 2]**

**CUSTOMS TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)  
BILL 2009 [No. 2]**

**CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD  
ASSISTANCE) BILL 2009 [No. 2]**

Order read for the adjourned debate on the motion of the Minister for Climate Change and Water (Senator Wong)—That these bills, except the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] and the Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2], be now read a third time.

Debate resumed.

Question put.

The Senate divided—

AYES, 33

Senators—

Arbib	Evans	Ludwig	Sherry
Bilyk	Farrell	Lundy	Stephens
Bishop	Faulkner	Marshall	Sterle
Boyce	Feeney	McEwen	Troeth
Brown, Carol	Forshaw	McLucas	Wong
Cameron	Furner	Moore	Wortley
Carr	Hogg	O'Brien (Teller)	
Collins	Hurley	Polley	
Conroy	Hutchins	Pratt	

NOES, 41

Senators—

Abetz	Colbeck	Humphries	Parry (Teller)
Adams	Coonan	Johnston	Payne
Back	Cormann	Joyce	Ronaldson
Barnett	Eggleston	Kroger	Ryan
Bernardi	Ferguson	Ludlam	Siewert
Birmingham	Fielding	Macdonald	Trood
Boswell	Fierravanti-Wells	Mason	Williams
Brandis	Fifield	McGauran	Xenophon
Brown, Bob	Fisher	Milne	
Bushby	Hanson-Young	Minchin	
Cash	Heffernan	Nash	

Question negated.

**18 CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)**

**BILL 2009 [NO. 2]**

**CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD ASSISTANCE) BILL 2009 [NO. 2]**

Messages from the House of Representatives were reported indicating that the House had made the amendments requested by the Senate to the following bills:

Message no. 481, dated 2 December 2009—Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2].

Message no. 482, dated 2 December 2009—Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2].

The Special Minister of State (Senator Ludwig) moved—That these bills be now read a third time.

Question put.

The Senate divided—

AYES, 32

Senators—

Arbib	Evans	Hutchins	Polley
Bilyk	Farrell	Ludwig	Pratt
Bishop	Faulkner	Lundy	Sherry
Brown, Carol	Feeney	Marshall	Stephens
Cameron	Forshaw	McEwen	Sterle
Carr	Furner	McLucas	Troeth
Collins	Hogg	Moore	Wong
Conroy	Hurley	O'Brien (Teller)	Wortley

## NOES, 41

## Senators—

Abetz	Colbeck	Humphries	Parry (Teller)
Adams	Coonan	Johnston	Payne
Back	Cormann	Joyce	Ronaldson
Barnett	Eggleston	Kroger	Ryan
Bernardi	Ferguson	Ludlam	Siewert
Birmingham	Fielding	Macdonald	Trood
Boswell	Fierravanti-Wells	Mason	Williams
Brandis	Fifield	McGauran	Xenophon
Brown, Bob	Fisher	Milne	
Bushby	Hanson-Young	Minchin	
Cash	Heffernan	Nash	

Question negatived.

#### 19 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), by leave, moved—That the question for the adjournment of the Senate shall be proposed after the Senate has considered the following government business orders of the day:

- No. 2 Appropriation (Water Entitlements and Home Insulation) Bill 2009-2010 and a related bill.
- No. 8 Fair Work Amendment (State Referrals and Other Measures) Bill 2009.
- No. 3 Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009 and a related bill.

Question put and passed.

#### 20 APPROPRIATION (WATER ENTITLEMENTS AND HOME INSULATION)

##### **BILL 2009-2010**

##### **APPROPRIATION (WATER ENTITLEMENTS) BILL 2009-2010**

Order of the day read for the adjourned debate on the motion of the Assistant Treasurer (Senator Sherry)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

No amendments to the bills were circulated and the bills were not considered in committee.

On the motion of the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) the bills were read a third time.

#### 21 NOTICE

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Wortley), by leave, gave a notice of motion as follows: To move 15 sitting days after today—That Marine Orders Part 28 – Operations standards and procedures – Issue 3, as contained in Marine Order No. 4 of 2009, made under subsection 425(1AA) of the *Navigation Act 1912*, be disallowed.

**22 FAIR WORK AMENDMENT (STATE REFERRALS AND OTHER MEASURES) BILL 2009**

Order of the day read for the adjourned debate on the motion of the Assistant Treasurer (Senator Sherry)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

An amendment to the bill was circulated but the senator concerned indicated that he did not wish to move it and no other senator required that the bill be considered in committee.

On the motion of the Minister for Employment Participation (Senator Arbib) the bill was read a third time.

**23 TAX LAWS AMENDMENT (2009 BUDGET MEASURES NO. 2) BILL 2009  
INCOME TAX (TFN WITHHOLDING TAX (ESS)) BILL 2009**

Order of the day read for the adjourned debate on the motion of Senator McEwen—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

No amendments to the bills were circulated and no senator required that they be considered in committee.

On the motion of the Assistant Treasurer (Senator Sherry) the bills were read a third time.

**24 COMMITTEE MEMBERSHIP**

A message from the House of Representatives was reported informing the Senate of a change in the membership of the Joint Standing Committee on Treaties, as follows:

Message no. 479, dated 1 December 2009—Mr Kerr in place of Ms Vamvakinou.

**25 BANKRUPTCY LEGISLATION AMENDMENT BILL 2009  
HEALTH INSURANCE AMENDMENT (NEW ZEALAND OVERSEAS TRAINED DOCTORS)  
BILL 2009****TRADE PRACTICES AMENDMENT (INFRASTRUCTURE ACCESS) BILL 2009**

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 478, dated 1 December 2009—A Bill for an Act to amend the *Bankruptcy Act 1966*, and for related purposes.

Message no. 477, dated 1 December 2009—A Bill for an Act to amend the *Health Insurance Act 1973*, and for related purposes.

Message no. 480, dated 1 December 2009—A Bill for an Act to amend the *Trade Practices Act 1974*, and for related purposes.

The Special Minister of State (Senator Ludwig) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ludwig moved—That these bills be now read a second time.

*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Ludwig moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

**26 NEXT MEETING OF SENATE**

The Special Minister of State (Senator Ludwig) moved—That the Senate, at its rising, adjourn till Tuesday, 2 February 2010, at 12.30 pm, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question put and passed.

**27 LEAVE OF ABSENCE**

The Special Minister of State (Senator Ludwig) moved—That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question put and passed.

**28 END OF 2009 SITTINGS—STATEMENT BY PRESIDENT**

The President made a statement relating to the end of the 2009 sittings.

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*Hours of meeting—Variation:* The Minister for Immigration and Citizenship (Senator Evans), by leave, moved—That the Senate continue to sit between 12.30 pm and 12.40 pm.

Question put and passed.

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*Statements by leave:* Senator Evans, the Leader of the Opposition in the Senate (Senator Minchin) and the Leader of the Family First Party (Senator Fielding), by leave, made statements relating to the end of the 2009 sittings.

**29 ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.

The Senate adjourned at 12.37 pm till Tuesday, 2 February 2010 at 12.30 pm.

**30 ATTENDANCE**

Present, all senators except Senator Scullion (on leave).

**HARRY EVANS**  
Clerk of the Senate