

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment, Climate Change and Water)

Climate Change and Greenhouse Gas Reduction Bill 2010

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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(Minister for the Environment, Climate Change and Water)

Climate Change and Greenhouse Gas Reduction Bill 2010

A Bill for

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

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2009-954

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 **3 Dictionary**

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

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

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

17 **4 Notes**

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

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

21 **5 Objects of Act**

22 The objects of this Act are—

23 (a) to set targets to reduce greenhouse gas emissions and increase
24 renewable energy use and generation in the ACT; and

- 1 (b) to provide for monitoring of and reporting on progress made in
2 the ACT to meet the targets; and
- 3 (c) to facilitate the government's development of policies and
4 programs to meet the targets and to address and adapt to
5 climate change; and
- 6 (d) to encourage private entities to take action to address climate
7 change and recognise the entities that take action.

1 **Part 2 Targets**

2 **6 ACT greenhouse gas emissions target**

3 (1) The principal target (the *ACT target*) is to reduce greenhouse gas
4 emissions in the ACT to achieve zero net emissions by
5 30 June 2060.

6 (2) In this section:

7 *zero net emissions* means that any emissions of greenhouse gas in
8 the ACT are balanced by—

9 (a) avoidance and mitigation activities; and

10 (b) emissions offsets outside the ACT.

11 **7 Interim greenhouse gas emissions targets**

12 (1) The *interim targets* are to reduce greenhouse gas emissions in the
13 ACT to—

14 (a) 40% less than 1990 emissions by 30 June 2020; and

15 (b) 80% less than 1990 emissions by 30 June 2050.

16 (2) In this section:

17 *1990 emissions* means the amount of greenhouse gas emissions in
18 the ACT for the year ending on 30 June 1990.

19 **8 Per person greenhouse gas emissions target**

20 The *per person target* is for the average amount of greenhouse gas
21 emissions produced per person in the ACT each year to peak by
22 30 June 2013.

1 **9 Renewable energy targets**

2 A regulation may prescribe targets for the use or generation of
3 renewable energy in the ACT.

4 **10 Measuring greenhouse gas emissions—determinations**

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

7 *Note* The power to make an instrument includes power to do the following:
8 (a) amend or repeal it (see Legislation Act, s 46);
9 (b) make different provision for different categories (see Legislation
10 Act, s 48).

11 (2) A determination is a disallowable instrument.

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

14 **11 Annual report by independent entity**

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

18 **Example—independent entity**
19 independent competition and regulatory commission

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

23 (2) The report must include—

24 (a) the amount of greenhouse gas emissions in the ACT for the
25 year (the *annual emissions amount*), measured using the
26 method determined under section 10; and

27 (b) an analysis of the ACT's progress in meeting the targets
28 mentioned in part 2 for the year, including—

Part 2 Targets

Section 11

- 1 (i) a comparison of the annual emissions amount with the
2 targets mentioned in part 2; and
- 3 (ii) identification of the main sources of greenhouse gas
4 emissions in the ACT; and
- 5 (iii) identification of possible reasons for changes in
6 greenhouse gas emissions from previous years; and
- 7 (c) any other information prescribed by regulation.
- 8 (3) The independent entity must, within 28 days after completing a
9 report, give the report to the Minister.
- 10 (4) The Minister must present the report to the Legislative Assembly
11 within 2 months after receiving it.

1 Part 3 Functions of Minister

2 12 Functions of Minister

- 3 (1) The Minister has the following functions:
- 4 (a) to regularly review issues relating to climate change;
- 5 (b) to promote action to meet the ACT target and the other targets
6 mentioned in part 2;
- 7 (c) to develop, adopt or promote policies and programs relating to
8 climate change;
- 9 (d) to consult business and community entities about issues
10 relating to climate change;
- 11 (e) to consider and promote actions or strategies by business
12 entities, including technological developments, to address or
13 adapt to climate change or reduce greenhouse gas emissions;
- 14 (f) to promote the Territory's involvement in state, national and
15 international climate change forums;
- 16 (g) to promote the commercialisation, generation and use of
17 renewable energy in the ACT;
- 18 (h) to promote the commercialisation and use of other technologies
19 to reduce greenhouse gas emissions in the ACT;
- 20 (i) to promote research and development consistent with the
21 objects of this Act;
- 22 (j) to support the development of regional, national and
23 international approaches to addressing climate change;
- 24 (k) to consider and recommend amending a territory law
25 (including this Act) or a government policy or practice if the
26 Minister reasonably believes an amendment is necessary to
27 achieve the objects of this Act;

- 1 (l) to assess the impact of climate change on the Territory;
2 (m) to support public education about climate change;
3 (n) any other functions given to the Minister under this Act.

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

- 7 (2) In the exercise of the Minister's functions, the Minister must try to
8 work together with—
9 (a) the Australian government; and
10 (b) State governments; and
11 (c) the Climate Change Council; and
12 (d) regional governments overseas; and
13 (e) relevant international, business, environmental and community
14 entities.

15 **13 Annual report by Minister**

- 16 (1) For each financial year, the Minister must prepare a report on the
17 actions the Minister has taken during the year in the exercise of the
18 Minister's functions under this Act.
19 (2) Each government agency must give the Minister information
20 requested by the Minister about any policies developed or programs
21 implemented by the agency during the financial year to address
22 climate change, greenhouse gas emissions and the targets mentioned
23 in part 2.
24 (3) The Minister must present the report to the Legislative Assembly
25 within 6 months after the end of the financial year.
26 (4) In this section:
27 *government agency*—see the *Public Sector Management Act 1994*,
28 dictionary.

1 **Part 4** **Climate change council**

2 **14** **Establishment of council**

3 The Climate Change Council is established.

4 **15** **Functions of council**

5 (1) The main function of the council is to advise the Minister on matters
6 relating to—

7 (a) reducing greenhouse gas emissions; and

8 (b) addressing, and adapting to, climate change.

9 (2) The council also has any other function given to the council under
10 this Act.

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

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

17 (3) Without limiting subsection (1), the matters on which the council
18 may advise the Minister include the following matters:

19 (a) actions or strategies to achieve energy efficiencies;

20 (b) actions or strategies to increase renewable energy use;

21 (c) actions or strategies to achieve the targets mentioned in part 2;

22 (d) community and business views on climate change, including—

23 (i) barriers to addressing climate change;

24 (ii) proposed actions or strategies to overcome the barriers;

- 1 (e) actions or strategies to encourage private entities to take action
2 to reduce greenhouse gas emissions and address climate
3 change;
- 4 (f) actions taken or strategies implemented by private entities to
5 reduce greenhouse gas emissions and address climate change;
- 6 (g) commercial, regional, national and international practices or
7 policies, including technological developments, to address
8 climate change that may be used in the ACT.
- 9 (4) In exercising its functions, the council—
- 10 (a) must try to—
- 11 (i) consult representatives from business and the community,
12 including environmental and conservation entities, on
13 matters relating to climate change; and
- 14 (ii) provide information to private entities to encourage
15 entities to take action to address, or adapt to, climate
16 change; and
- 17 (b) must consider—
- 18 (i) the social, economic and environmental impact of issues
19 relating to climate change; and
- 20 (ii) national and international practices or developments in
21 climate change; and
- 22 (iii) any relevant report given to the Minister by an
23 independent entity under section 11; and
- 24 (iv) information available in any other report the Minister
25 requires the council to consider; and
- 26 (c) may consider any other relevant information.

1 **16** **Minister to consider council advice**

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

4 **17** **Membership**

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

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

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

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

14 (2) The Minister must try to ensure that—

15 (a) the council includes people with a broad range of skills and
16 knowledge relating to addressing, or adapting to, climate
17 change; and

18 (b) the following people are among the members appointed:

19 (i) a person to represent the interests of business;

20 (ii) a person to represent the community's interest in the
21 environment;

22 (iii) a person to represent climate change science;

23 (iv) a person to represent environmental management;

24 (v) a person to represent the built environment;

25 (vi) a public employee.

26 (3) The Minister may appoint a person as a member only if satisfied
27 that the person—

- 1 (a) is committed to addressing climate change; and
2 (b) has knowledge and experience in an area relevant to the
3 operation of this Act.
- 4 (4) The conditions of appointment of a member are the conditions
5 stated in the appointment.

6 **18 Chair**

7 The Minister must appoint a member of the council to be the chair
8 of the council.

9 **19 Ending of appointments**

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

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

- 26 (2) The Minister may also end the appointment of a member (the
27 ***member concerned***) if the council tells the Minister in writing that it

- 1 has resolved, by a majority of at least $\frac{2}{3}$ of the members, to
2 recommend to the Minister that the member's appointment be
3 ended.
- 4 (3) The council may pass a resolution mentioned in subsection (2) only
5 if—
- 6 (a) at least 3 weeks written notice of the intention to consider the
7 proposed resolution has been given to the member concerned;
8 and
- 9 (b) the member concerned has been given an opportunity to make
10 submissions and present documents to a meeting of the
11 council; and
- 12 (c) if the member concerned has used the opportunity mentioned
13 in paragraph (b)—a summary of the member's submissions is
14 recorded in the minutes of the council and a copy of any
15 documents presented is included in the minutes.

1 **Part 5 Sector agreements**

2 **20 Sector agreements**

- 3 (1) The Minister may make an agreement (a *sector agreement*) with an
4 entity under which the entity agrees on a voluntary basis to assist in
5 meeting the targets mentioned in part 2 by introducing strategies
6 to—
- 7 (a) reduce greenhouse gas emissions; or
8 (b) increase use of renewable energy sources; or
9 (c) offset greenhouse gas emissions.
- 10 (2) A regulation may prescribe requirements for a sector agreement.
11 (3) A sector agreement must be consistent with the objects of this Act.
12 (4) A sector agreement is a notifiable instrument.
13 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **Part 6** **Miscellaneous**

2 **21** **Review of Act**

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

5 (a) as soon as practicable after the end of this Act's 5th year of
6 operation; and

7 (b) as soon as practicable after each subsequent 10 years of this
8 Act's operation.

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

12 **22** **Regulation-making power**

13 The Executive may make regulations for this Act.

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

1 Dictionary

2 (see s 3)

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

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

- 6 • ACT
- 7 • appoint
- 8 • disallowable instrument (see s 9)
- 9 • entity
- 10 • financial year
- 11 • function
- 12 • instrument (see s 14)
- 13 • may (see s 146)
- 14 • Minister (see s 162)
- 15 • must (see s 146)
- 16 • notifiable instrument (see s 10)
- 17 • person (see s 160)
- 18 • regulation
- 19 • territory law
- 20 • year.

21 *council* means the Climate Change Council established under
22 section 14.

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

- 25 (a) carbon dioxide;
- 26 (b) methane;
- 27 (c) nitrous oxide;
- 28 (d) hydrofluorocarbons;
- 29 (e) perfluorocarbons;

- 1 (f) sulphur hexafluoride;
2 (g) any other gas prescribed by regulation.
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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2010.

2 Notification

Notified under the Legislation Act on 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
