

Carbon Pricing (Amendment) Bill 2022

Bill No. /2022.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Carbon Pricing Act 2018.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Carbon Pricing (Amendment) Act 2022 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. In section 2 of the Carbon Pricing Act 2018 (called in this Act the principal Act) —

(a) replace the definition of “carbon credit” with —

10 ““carbon credit” means a fixed-price carbon credit or an eligible international carbon credit;”;

(b) in the definition of “carbon price”, replace “carbon credit” with “fixed-price carbon credit”;

(c) after the definition of “electronic transactions service”, insert —

15 ““eligible international carbon credit” has the meaning given in section 33A;”;

(d) after the definition of “first emissions threshold”, insert —

““fixed-price carbon credit” means a carbon credit mentioned in section 26;

20 ““fixed-price carbon credit registry account” or “FPCC registry account” means a registry account for a taxable facility of a registered person that is opened by the Agency in the Fixed-Price Carbon Credits Registry under section 31;”;

25 (e) after the definition of “greenhouse gas”, insert —

30 ““international carbon credit” means a certificate representing one tonne of GHG emissions reductions or removals measured in tCO_{2e}, generated from any project or programme outside Singapore;

“international carbon credit registry account” or “ICC registry account” means a registry account for a taxable facility of a registered person that is opened by the Agency in the International Carbon Credits Registry under section 33D;

“Minister” means —

(a) (except in Division 1A of Part 5) the Minister charged with the responsibility for sustainability and the environment, and

(b) in Division 1A of Part 5, the Minister charged with the responsibility for trade and industry;” and

(f) delete the definition of “registry account”.

Amendment of section 7

3. In section 7 of the principal Act —

(a) in subsection (1), replace “whilst the business facility is under the operational control of a person in any year (called in this Part a trigger year), then the person” with “in any year (called in this Part a trigger year), then the person mentioned in subsection (1A)”;

(b) after subsection (1), insert —

“(1A) The person for the purpose of subsection (1) is the person having operational control over the business facility on 31 December of the trigger year.”; and

(c) after subsection (4), insert —

“(4A) Without affecting subsection (1), where —

(a) a person (*X*) is a registered person of a business facility that is a reportable facility, or both a reportable facility and taxable facility; and

(b) the person transfers operational control over the business facility to another person (*Y*),

then *Y* must apply to the Agency —

(c) to be registered as a registered person; and

(d) to register the business facility as a reportable facility or as both a reportable facility and a taxable facility (as the case may be), of *Y*.

5 (4B) Subsection (4A)(c) does not apply if *Y* is already a registered person.

(4C) To avoid doubt, a business facility may be registered as a reportable facility, or both a reportable facility and a taxable facility, of more than one registered person.”.

10

Amendment of section 8

4. In section 8 of the principal Act —

(a) in subsection (1), replace paragraph (a) with —

“(a) be made —

15 (i) where section 7(1) applies — no later than 30 June of the year immediately after the trigger year; and

(ii) where section 7(4A) applies —

20 (A) if, at the time *X* transfers operational control to *Y*, the business facility is registered only as a reportable facility of *X* — no later than 30 June of the year immediately after the year of the transfer;

25 (B) if, at the time *X* transfers operational control to *Y*, the business facility is registered as a taxable facility of *X* but no monitoring plan has been approved by the Agency for the taxable facility, no later than the later of the following:

30

(BA) 30 June of the year of the transfer;

(BB) 30 days after the date of the transfer; and

(C) if, at the time *X* transfers operational control to *Y*, the business facility is registered as a taxable facility of *X* and a monitoring plan has been approved by the Agency for the taxable facility — no later than 30 days after the date of the transfer;”; and

(b) replace subsection (4) with —

“(4) A registration under this section is in force as follows:

(a) subject to paragraph (b), starting on 1 January of the year immediately after the trigger year for the registration, until deregistration under section 10;

(b) for a registration pursuant to section 7(4A), starting on the date of the transfer of operational control, until deregistration under section 10.”.

Amendment of section 9

5. In section 9 of the principal Act —

(a) after paragraph (a) of subsection (1), insert —

“(aa) the registered person has operational control over the business facility but has ceased to operate the business facility;”;

(b) insert, after paragraph (a) of subsection (3) —

“(aa) the registered person has operational control over the business facility but has ceased to operate the business facility;”;

(c) insert, after subsection (4) —

“(5) The Agency may, on its own volition, deregister any registered person as such, and any business facility

registered as a reportable facility or registered taxable facility of the person as such, if the Agency is satisfied that the person has been wound up or dissolved or has otherwise ceased to exist.”; and

- 5 (d) in the section heading, after “registered person”, insert “, etc.”.

Amendment of section 10

6. In section 10(4) of the principal Act, replace “The” with “Except where section 9(5) applies, the”.

10 **Amendment of section 11**

7. In section 11 of the principal Act, replace subsections (1) and (2) with —

15 “(1) Where a registered person has for any part of a year operational control over a business facility that is a reportable facility of the registered person, the registered person must submit to the Agency for the Agency’s approval, an emissions report for that business facility for that year.

20 (2) The emissions report must set out the GHG emissions (other than excluded GHG emissions) of the business facility for the reporting period for that year for the business facility as a reportable facility of the registered person.

25 (2A) For the purposes of subsection (2), the reporting period for that year for the business facility as a reportable facility of the registered person, is the whole or the part of that year (as the case may be) for which the business facility is under the operational control of the registered person.

30 (2B) To avoid doubt, where operational control over a business facility is transferred one or more times in a year, there is a reporting period for the business facility as a reportable facility of each registered person having operational control over the business facility in that year.

(2C) A registered person mentioned in subsection (2B) (Y) may, with the approval of the Agency, treat the reporting period

for the business facility as a reportable facility of *Y*, as including the reporting period for the business facility as a reportable facility of any registered person having operational control over the business facility before *Y* (*X*) in that year, and subsection (1) applies to *Y* as if it were *X* in relation to such reporting period so included.

(2D) Where the Agency has approved the treatment mentioned in subsection (2C), subsection (1) does not apply to *X* in relation to any reporting period treated as the reporting period for the year for the business facility as a reportable facility of *Y*.”

Amendment of section 13

8. In section 13 of the principal Act, after subsection (6), insert —

“(7) Where the circumstances described in section 7(4A) apply and *X* has a monitoring plan for the business facility of *X* that is approved by the Agency under this section —

- (a) the Agency must provide *Y* with the monitoring plan; and
- (b) the monitoring plan is treated for the purposes of subsection (1) as if it had been submitted to the Agency and approved by the Agency as a monitoring plan for the taxable facility of *Y*, as from and including the date of the transfer of operation control over the business facility from *X* to *Y*.

(8) Nothing in subsection (7) prevents the monitoring plan (as on the day immediately before the date of the transfer of operational control) from continuing to be a monitoring plan for the business facility as a taxable facility of *X* for the purpose of *X* complying with any of *X*’s obligations under section 12.”

Amendment of section 16

9. In section 16 of the principal Act —

- (a) in subsection (1), replace “of a taxable facility of a registered person in a reporting period, as is set out in an emissions report or the part of an emissions report for the reporting

period that is verified under section 12 and approved by the Agency, respectively” with “in any year (called in this Act an emissions year) of a business facility that is a taxable facility of any registered person in that year”;

5 (b) insert after subsection (1) —

“(1A) For the purpose of subsection (1), the total amount of reckonable GHG emissions of the business facility is as set out in the emissions report or the part of the emissions report for the reporting period, or the
10 emissions reports or the parts of the emissions reports for the reporting periods, for that year for the business facility, that is or are verified under section 12 and approved by the Agency, respectively.”;

(c) in subsection (2), replace “reporting period” with “year”; and

15 (d) in subsection (4), replace “at the end of the reporting period in question” with “having operational control of the taxable facility at the end of the reporting period or (if there is more than one) the last reporting period for the emissions year”.

Amendment of section 17

20 **10.** In section 17 of the principal Act —

(a) in subsection (1), replace “a reporting period” with “an emissions year”;

(b) in subsection (1)(a)(i), replace “reporting period” with “emissions year”;

25 (c) replace paragraph (a) of subsection (2) with —

“(a) subject to subsection (3A), by the surrender of fixed-price carbon credits; or”;

(d) in subsection (2)(b), replace “registry account” with “FPCC registry account”; and

30 (e) replace subsection (3) with —

“(3) Subject to subsection (3A), the number of fixed-price carbon credits that must be surrendered under

subsection (2)(a) is the number assessed by the Agency to have a total carbon price equal to the amount of tax charged.

5 (3A) Despite subsection (2)(a) and (3) and subject to section 33B, one eligible international carbon credit may be surrendered in place of one fixed-price carbon credit.

(3B) Where any tax is required to be paid pursuant to a revision of an assessment under section 23 —

10 (a) the number of fixed-price carbon credits (at the carbon price applicable to the year in which they are to be purchased for the payment) that must be surrendered under subsection (2)(a) is the number assessed by the Agency to have a total carbon price equal to the amount of the tax, rounded
15 down to the nearest fixed-price carbon credit; and

(b) subsection (3A) does not apply except in the circumstances and to the extent prescribed.”.

Amendment of section 19

11. In section 19 of the principal Act —

20 (a) in subsection (1), replace “carbon credits” with “fixed-price carbon credits, or both fixed-price carbon credits and international carbon credits,”;

(b) in subsection (2), replace “registry account” wherever it appears with “FPCC registry account”;

25 (c) in subsection (2), replace “carbon credits” with “fixed-price carbon credits”;

(d) after subsection (2), insert —

30 “(2A) To avoid doubt, the fixed-price carbon credits refunded under subsection (2) must be at the carbon price applicable for the purchase of carbon credits in the year in which the refund is made.

(2B) Where the amount of the refund results in there being a fraction of a fixed-price carbon credit mentioned

in subsection (2A), the resulting number of fixed-price carbon credits is to be rounded down to the nearest whole number of such fixed-price carbon credits.

5 (2C) No claim may be brought against the Government or the Agency for any value represented by the fraction of a fixed-price carbon credit mentioned in subsection (2B).”;

(e) in subsection (4), replace “carbon credit” wherever it appears with “fixed-price carbon credit”; and

10 (f) in subsection (4), replace “registry account” with “FPCC registry account”.

Amendment of section 20

12. In section 20(1)(d) of the principal Act, replace “carbon credit” with “fixed-price carbon credit”.

15 New Division 1A of Part 5

13. After section 20 of the principal Act, insert —

“Division 1A — Allowances

Interpretation of this Division

20A.—(1) In this Division —

20 “allowance”, in relation to a taxable facility that is eligible for an allowance for an emissions year, means the amount by which the total amount of reckonable GHG emissions of the taxable facility in the emissions year may be reduced for the purpose only of determining the amount of the tax chargeable for the emissions year, in accordance with an award of allowances given by the Minister under

25 section 20E;

30 “public body” and “responsible Minister”, in relation to a public body, have the meanings given by section 2(1) of the Public Sector (Governance) Act 2018.

(2) In this Division, a person is from the public sector if the person is a public officer or an employee of a public body.

Application of this Division

5 **20B.** This Division applies in relation to any emissions year in the period from and including 1 January 2024 up to and including such date as the Minister may prescribe under section 20F.

Reduction of reckonable GHG emissions chargeable to tax

10 **20C.**—(1) Despite section 16(3), where a taxable facility is eligible for any allowance for any emissions year, the amount of the tax chargeable under section 16(1) in respect of that emissions year is calculated based on the formula $(A - C) \times B$, where —

- 15
- (a) A and B have the meanings given by section 16(3)(a) and (b), respectively;
 - (b) C is the allowance for the taxable facility for the emissions year; and
 - (c) $(A - C)$ is rounded up to the nearest metric tonne.

Taxable facilities eligible for allowances

20 **20D.**—(1) A taxable facility is eligible for allowances if —

- (a) the registered person of the taxable facility is engaged in making exports or makes supplies to another person who is engaged in making exports; and
- 25 (b) the Minister determines that the business of the registered person is of sufficient economic or strategic importance to the growth, expansion, development or well-being of the Singapore economy, to justify an award of allowances for the taxable facility.

30 (2) The Minister must notify the registered person of a taxable facility that is eligible for allowances of that fact, and grant the registered person an award of allowances for the taxable facility.

Awards of allowances

20E.—(1) The Minister must, in an award of allowances for any taxable facility, specify —

- 5 (a) the emissions years in respect of which the taxable facility is entitled to allowances; and
- (b) the methodology by which the amount of allowance for each such emissions year is to be calculated.

(2) In determining the methodology for any emissions year, the Minister may —

- 10 (a) adopt (with or without modifications) in whole or in part —
- (i) any globally-recognised benchmark for, or any matter relevant to, GHG emissions or energy use or efficiency; or
- 15 (ii) such other matter as the Minister considers appropriate for the purpose of incentivising the continued reduction in the GHG emissions of the taxable facility; and
- 20 (b) provide for a maximum amount of allowance for any emissions year, determined —
- (i) by prescribing that the tax chargeable in respect of the total amount of reckonable GHG emissions of the taxable facility for the emissions year less the allowance for the emissions year, must not be less than an amount specified by the Minister in the award, when calculated using —
- 25 (A) that amount of the tax chargeable; and
- (B) the total amount of reckonable GHG emissions of the taxable facility for the emissions year; or
- 30 (ii) in any other manner as the Minister considers appropriate to incentivise the continued reduction in GHG emissions of the taxable facility.

(3) For the purposes of subsection (2), the Minister may determine different methodologies for —

- (a) different taxable facilities;
- (b) different classes of taxable facilities;
- 5 (c) different emissions years (including with respect to the same taxable facility); or
- (d) different circumstances.

(4) The Minister may at any time, in respect of any emissions year for which a taxable facility is entitled to an allowance under an award of allowances, amend the award of allowances by
10 modifying the methodology specified for the emissions year, or substituting some other methodology for the emissions year, in such circumstances as the Minister thinks appropriate, including where the original methodology ceases to be globally-
15 recognised, or ceases to be valid or applicable, or ceases to have or is reduced in its relevance, in relation to the registered person or its business for which the taxable facility is used.

(5) The modified or substituted methodology must not be applied in respect of any emissions year in respect of which the Agency has made an assessment of tax under Division 2 of
20 Part 5, but may be so applied if the assessment is being revised under section 23.

(6) The Minister must, in respect of each emissions year mentioned in subsection (1)(a), determine the amount of the
25 allowance for that emissions year in accordance with the methodology mentioned in subsection (1)(b) for that emissions year.

Regulations

20F. The Minister may make regulations for any matter that is
30 necessary, required or permitted to be prescribed to give effect to this Division, and the regulations may make different provisions for —

- (a) different persons or business facilities;

- (b) different classes of persons or business facilities;
- (c) different emissions years (including with respect to the same taxable facility); or
- (d) different circumstances.

5 **Assignment**

20G.—(1) The Minister may assign any of his or her functions and powers under this Division to any public body.

(2) Where the public body is not one for which the Minister is the responsible Minister, the Minister must consult the
10 responsible Minister for the public body on the assignment.

(3) An assignment under this section —

- (a) must be made by order in the *Gazette*;
- (b) may be general or limited;
- (c) may be subject to conditions that are consistent with the
15 nature of the assigned function or power;
- (d) may be to 2 or more public bodies at the same time; and
- (e) does not prevent the Minister from carrying out or exercising the assigned function or power.

(4) Upon an assignment being made under this section —

- (a) the public body, when carrying out the function or
20 exercising the power assigned to it, is treated as carrying out a function or exercising a power conferred on the public body under the Act that establishes it; and
- (b) the public body must carry out the function or exercise
25 the power assigned to it in accordance with any directions given by the Minister.

(5) A member of the public body who is not from the public sector must not be involved in the carrying out of a function or the exercise of a power assigned to the public body.

(6) The public body must not delegate a function or power assigned to it, to any of its members, or to any other person, who is not from the public sector.

5 (7) Without affecting any obligation as to secrecy or other restriction against the disclosure of information imposed by any law or contract —

(a) a member of the public body who is from the public sector; or

10 (b) a person to whom a function or power under an incentive provision has been delegated,

that receives or obtains information relating to a person for the purposes of this Division, must not disclose or provide access to such information to a member of the public body, or any other person, who is not from the public sector.

15 (8) Subsection (7) does not apply to the following information:

(a) information the disclosure of which has been approved by the Minister;

(b) information relating to a person —

20 (i) for which consent for disclosure has been obtained from the person; or

(ii) that is already in the possession of the public body;

(c) information that is publicly available.

25 (9) The public body may carry out a function or exercise a power assigned to it despite the absence of a quorum at any meeting of the public body because of subsection (5) or (7), and the absence of a quorum does not affect the validity of anything done by the public body at the meeting.

(10) This section does not permit the assignment of —

(a) any power to make subsidiary legislation; and

30 (b) the power of assignment in this section.”.

Amendment of section 21

14. In section 21 of the principal Act —

- 5 (a) in subsection (1), replace “a verified emissions report for a taxable facility of a registered person for a reporting period” with “a verified emissions report for a reporting period, or the verified emissions reports for the reporting periods, for an emissions year for a taxable facility”;
- (b) in subsection (1)(a), replace “reporting period” with “emissions year”;
- 10 (c) replace subsections (2) and (3) with —
- “(2) Where the Agency is of the opinion that a registered person is liable to pay the tax for an emission year and —
- (a) any verified emissions report for a reporting period for the emissions year has not been submitted for the Agency’s approval as required by section 11(1); or
- (b) any such verified emissions report submitted is incomplete or inaccurate such that, or for any other reason, the Agency is unable to approve the same before 15 August of the year immediately following the emissions year,
- the Agency may, to the best of the Agency’s judgment, assess the matters in subsection (1).
- (3) In making an assessment under subsection (2), the Agency may have regard to any verified emissions report (whether or not approved by the Agency) previously submitted to the Agency for the business facility to which the tax relates, and if there are no such verified emissions reports, the Agency may have regard to —
- 25 (a) emissions reports submitted in relation to the business facility as a reportable facility;
- 30

- (b) energy use reports submitted under the Energy Conservation Act 2012 for the business facility; or
- (c) any other document which may assist the Agency in determining or estimating the total amount of reckonable GHG emissions of the business facility as a taxable facility for the emissions year in question.”;
- (d) in subsection (4), replace “the registered person under” with “any registered person under”; and
- (e) In subsection (5), after “the registered person”, insert “liable to pay the tax”.

Amendment of section 22

15. In section 22 of the principal Act —

- (a) in subsection (1), replace “each reporting period after the most recent reporting period for which the Agency has issued an assessment under section 21(1) or (2) for the taxable facility” with “any year for which the Agency has not issued an assessment under section 21(1) or (2) for the taxable facility”; and
- (b) after subsection (2), insert —
 - “(3) Where, in relation to a business facility that is a taxable facility, no verified emissions reports for the business facility as a taxable facility are available for the purpose of subsection (2), the Agency may have regard to —
 - (a) emissions reports submitted in relation to the business facility as a reportable facility;
 - (b) energy use reports submitted under the Energy Conservation Act 2012 for the business facility; or
 - (c) any other document which may assist the Agency in determining or estimating the total amount of

reckonable GHG emissions of the business facility as a taxable facility for the emissions year in question.”.

Repeal and substitution of section 24

5 **16.** Section 24 of the principal Act is repealed and replaced with —

“Waiver of small assessments

24. Where it appears to the Agency that the amount of any tax or additional tax in relation to any emissions year does not exceed an amount that is 5 times the carbon price applicable for
10 the purchase of carbon credits in the year immediately after the emissions year, or any higher amount as may be prescribed in substitution, the Agency may waive the assessment of such tax.”.

Replacement of Division heading in Part 5

17. In the principal Act, replace the Division heading after
15 section 25 with “Division 3 — Fixed-price carbon credits”.

Amendment of section 26

18. In section 26 of the principal Act —

- (a) in subsections (1) and (2), replace “carbon credit” with “fixed-price carbon credit”; and
- 20 (b) replace the section heading with “Fixed-price carbon credits”.

Amendment of section 27

19. In section 27 of the principal Act —

- 25 (a) in subsection (1) and the section heading, replace “carbon credits” with “fixed-price carbon credits”;
- (b) in subsections (1) and (2), replace “registry account” wherever it appears with “FPCC registry account”; and
- (c) in subsection (2), replace “carbon credit” with “fixed-price carbon credit”.

Amendment of section 28

20. In section 28 of the principal Act —

- (a) in subsections (1) and (2) and the section heading, replace “carbon credits” with “fixed-price carbon credits”;
- 5 (b) in subsections (1) and (2), replace “registry account” with “FPCC registry account”; and
- (c) in subsection (2), replace “carbon credit” wherever they appear with “fixed-price carbon credit”.

Amendment of section 29

10 **21.** In section 29 of the principal Act —

- (a) in subsections (1), (2) and (3), replace “carbon credit” wherever it appears with “fixed-price carbon credit”;
- (b) in subsections (1), (2) and (3), replace “registry account” wherever it appears with “FPCC registry account”; and
- 15 (c) in the section heading, replace “carbon credits” with “fixed-price carbon credits”.

Amendment of section 30

22. In section 30 of the principal Act —

- (a) replace “carbon credit” with “fixed-price carbon credit”; and
- 20 (b) replace “carbon credits” in the section heading with “fixed-price carbon credits”.

Replacement of Division heading in Part 5

23. In the principal Act, replace the Division heading after section 30 with “Division 4 — Fixed-Price Carbon Credits Registry”.

25 **Amendment of section 31**

24. In section 31 of the principal Act —

- (a) replace “the Carbon Credits Registry” with “the Fixed-Price Carbon Credits Registry”; and

- (b) replace “registry account” in the section heading with “fixed-price carbon credit registry account”.

New section 31A

25. In the principal Act, after section 31, insert —

5 **“Conversion of fixed-price carbon credits upon change in carbon price**

31A.—(1) Where in any year (year *X*) —

- (a) a registered person has in its FPCC registry account any fixed-price carbon credits purchased at the carbon price for year *X*-1; and
- 10 (b) the carbon price for year *X* differs from the carbon price for the year *X*-1,

the Agency must convert the fixed-price carbon credits purchased at the carbon price applicable to year *X*-1 into such number of fixed-price carbon credits as if they have been purchased in year *X*, by applying the formula

15

$$R \times S/T$$

where —

- 20 (c) *R* is the number of fixed-price carbon credits in the account that were purchased at the carbon price for year *X*-1;
- (d) *S* is the carbon price applicable for the purchase of carbon credits in year *X*-1; and
- 25 (e) *T* is the carbon price applicable for the purchase of carbon credits in year *X*.

(2) Where the adjustment under subsection (1) results in there being a fraction of a fixed-price carbon credit, the resulting number of fixed-price carbon credits is to be rounded down to the nearest whole number of such fixed-price carbon credits.

(3) No claim may be brought against the Government or the Agency for any value represented by the fraction of a fixed-price carbon credit mentioned in subsection (2).”.

Amendment of section 32

- 5 **26.** In section 32 of the principal Act —
- (a) in subsection (1)(d), replace “carbon credit” with “fixed-price carbon credit”;
 - (b) in subsections (1) and (2), replace “a registry account” with “an FPCC registry account”;
 - 10 (c) in subsection (2)(a) and (b), replace “carbon credits” with “fixed-price carbon credits”;
 - (d) in subsection (2)(b), replace “registry account” with FPCC registry account”; and
 - 15 (e) in the section heading, replace “registry account” with “fixed-price carbon credit registry account”.

Amendment of section 33

- 27.** In section 33 of the principal Act —
- (a) in subsection (1), replace “a registry account” with “an FPCC registry account”;
 - 20 (b) in subsections (2), (3)(a), (4), (5), (6) and (7), replace “registry account” wherever it appears with “FPCC registry account”;
 - (c) in subsection (6)(a) and (b), replace “carbon credit” with “fixed-price carbon credit”; and
 - 25 (d) replace “registry account” in the section heading with “fixed-price carbon credit registry account”.

New Divisions 5 and 6 of Part 5

- 28.** After section 33 of the principal Act, insert —

“Division 5 — International carbon credits

Eligible international carbon credit

33A. An eligible international carbon credit is an international carbon credit that —

- 5 (a) meets the prescribed criteria; and
- (b) is accepted as an eligible international carbon credit by the Agency in accordance with any direction of the Minister.

Surrender of eligible international carbon credits

10 **33B.**—(1) For the purpose of section 17(3A), the total number of eligible international carbon credits surrendered must not exceed the prescribed limit.

 (2) Despite subsection (1), the Minister may permit eligible international carbon credits to be surrendered in excess of the prescribed limit in any particular case or class of cases.

15

 (3) Where a registered person has surrendered an eligible international carbon credit in place of a fixed-price carbon credit for the purpose of paying any tax in relation to a taxable facility, the registered person is treated as having paid the tax to the extent of the carbon price of the fixed-price carbon credit that the eligible international carbon credit has been surrendered in place of.

20

No refunds, etc., on excess eligible international carbon credit surrendered

25 **33C.** Where eligible international carbon credits are surrendered in excess of the prescribed limit under section 33B in connection with the tax chargeable on the reckonable GHG emissions of a taxable facility for any emissions year —

- 30 (a) the number of eligible international carbon credits surrendered in excess of the prescribed limit are not treated as surrendered for the purpose of paying the tax for that emissions year, and may not be treated as

having been surrendered for the purpose of paying any tax for any prior or subsequent emissions year; and

- (b) no refund or compensation is payable by the Government or the Agency to any person for the number of eligible international carbon credits surrendered in excess of the prescribed limit.

Division 6 — International carbon credit registry

ICC registry and ICC registry accounts

33D. The Agency may establish, maintain and manage an International Carbon Credits Registry, and open and close ICC registry accounts for registered persons in such registry in connection with the surrender of eligible ICC carbon credits by the registered persons for the purposes of this Act.”.

Amendment of section 34

29. In section 34 of the principal Act, in subsection (1)(c), replace “carbon credit into the registered person’s registry account” with “fixed-price carbon credit into the registered person’s FPCC registry account”.

Amendment of section 37

30. In section 37(2) of the principal Act, replace “\$500 in the amount of tax charged” with “ $250\text{tCO}_2\text{e} \times R$ in the amount of tax charged, where R is the carbon tax rate used to determine the tax chargeable for the emissions year in question”.

Amendment of section 41

31. In section 41 of the principal Act —

(a) in subsection (1), replace paragraph (d) with —

“(d) FPCC registry accounts in the Fixed-Price Carbon Credits Registry;

(e) ICC registry accounts in the International Carbon Credits Registry.”;

(b) in subsection (2), replace “register of registry accounts for each registry account” with “register of FPCC registry accounts for each FPCC registry account”;

5 (c) in subsections (2)(a), (b) and (d) and (4), replace “registry account” with “FPCC registry account”;

(d) in subsection (2)(b), (c) and (d), replace “carbon credits” with “fixed-price carbon credits”; and

(e) after subsection (2), insert —

10 “(2A) Without affecting subsection (1), the Agency must enter the following particulars into the register of ICC registry accounts for each ICC registry account:

(a) the taxable facility and registered person to which the ICC registry account relates;

15 (b) the number and details of the eligible international carbon credits surrendered by the registered person;

(c) such other information as may be prescribed.”.

Amendment of section 42

20 **32.** In section 42(1) of the principal Act, replace “or registry account” with “, FPCC registry account or ICC registry account”.

Amendment of section 44

33. In section 44(1) of the principal Act, replace “registry account” with “FPCC registry account or IPCC registry account”.

Amendment of section 75

25 **34.** In section 75 of the principal Act, insert after subsection (2) —

“(3) The Agency may grant the extension of time under subsection (2) after the time sought to be extended has expired, but only if the application by the person was made to the Agency before the expiry of the time sought to be extended.

30 (4) Where subsection (3) applies, the Agency must extend the time to a date after the date of the decision of the Agency on the

application and, to avoid doubt, time is treated as extended so long as the Agency has not made its decision.

(5) The Agency may grant one or more extensions of time under and in accordance with this section.”.

5 **Amendment of section 76**

35. In section 76(1), after “this Act”, insert “(other than Division 1A of Part 5)”.

Amendment of Second Schedule

10 **36.** In Part 2 of the Second Schedule to the principal Act, delete item 1.

Amendment of Third Schedule

37. In the Third Schedule to the Act —

(a) in Part 1, replace paragraph 1 with —

“1. The carbon tax rate is as follows:

15 (a) for carbon tax for GHG emissions in 2023 or any earlier emissions year — \$5/tCO₂e;

(b) for carbon tax for GHG emissions in 2024 or 2025 — \$25/tCO₂e;

20 (c) for carbon tax for GHG emissions in 2026 or any later emissions year — \$45/tCO₂e.”; and

(b) in Part 2, replace paragraph 1 with —

“1. Subject to section 31A, a fixed-price carbon credit has a value as follows:

25 (a) for a fixed-price carbon credit purchased in 2024 or any earlier year — \$5;

(b) for any fixed-price carbon credit purchased in 2025 or 2026 — \$25;

(c) for any fixed-price carbon credit purchased in 2027 or any later year — \$45.”.

30 **Amendment of Fifth Schedule**

38. In the Fifth Schedule to the principal Act —

- (a) in paragraph 3(a)(i) and (ii) and (b), replace “carbon credits” with “fixed-price carbon credits”;
- (b) in paragraph 3(a)(ii), replace “registry account” with “FPCC registry account”;
- 5 (c) in paragraph 3(a)(v), replace “a registry account” with “an FPCC registry account or an ICC registry account”; and
- (d) after sub-paragraph (a) of paragraph 3, insert —
 - 10 “(aa) the criteria for eligible international carbon credits, and the acceptance by the Agency of eligible international carbon credits.”.

Saving and transitional provisions

- 15 **39.** For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Carbon Pricing Act 2018 —

- (a) to provide for revisions to the carbon tax rate and the carbon price;
- (b) to provide for allowances that will reduce the amount of carbon tax payable, to be administered by the Minister charged with the responsibility for trade and industry;
- (c) to rename “carbon credits” as “fixed-price carbon credits”, to provide for the surrender of eligible international carbon credits in place of fixed-price carbon credits for the purpose of paying the carbon tax, and to establish an International Carbon Credits Registry and international carbon credit registry accounts;
- (d) to modify the obligations for registration and emissions reporting (in particular, where there has been a transfer of operational control over a business facility), and the basis for liability for the carbon tax; and
- (e) to make consequential amendments in light of paragraphs (a) to (d).

Clause 1 relates to the short title and commencement.

Clause 2(c), (d) and (e) inserts definitions of “eligible international carbon credit”, “fixed-price carbon credit”, “fixed-price carbon credit registry account” or “FPCC registry account”, “international carbon credit”, “international carbon credit registry account” or “ICC registry account” and “Minister”. Clause 2(a), (b) and (f) makes consequential amendments to the definitions of “carbon credit” and “carbon price” and deletes the definition of “registry account”.

Clauses 3, 4, 7 and 8 amend sections 7, 8, 11 and 13, respectively, to modify the obligations of a person (Y) to whom a registered person (X) transfers operational control over a business facility, in relation to —

- (a) Y’s registration as a registered person, and the registration of the business facility as a reportable facility, or both a reportable facility and a taxable facility, of Y; and
- (b) X’s and Y’s submission of emissions reports and a monitoring plans.

The revisions are as follows, where X transfers operational control over the business facility to Y in, say, 2024, at a time when X has an approved monitoring plan for the business facility:

<i>Year</i>	<i>GHG emissions (tCO_{2e})</i>	<i>Current registration and reporting obligations</i>	<i>Revised registration and reporting obligations</i>
2021	Less than 2,000	—	—
2022	25,000 or more	—	—
2023	25,000 or more	X must apply to be registered as a registered person and for the business facility to be registered as a reportable facility and a taxable facility of X, by 30 June 2023; X must submit a monitoring plan by 31 December 2023	X must apply to be registered as a registered person and for the business facility to be registered as a reportable facility and a taxable facility of X, by 30 June 2023; X must submit a monitoring plan by 31 December 2023
2024 (transfer of operational control in	25,000 or more	X must submit a verified emissions report for the GHG emissions of the	X must submit a verified emissions report for the GHG emissions of the

the third quarter of 2024)		business facility in 2023, by 30 June 2024; <i>X</i> may apply to deregister as a registered person, and to deregister the business facility as a reportable facility and a taxable facility of <i>X</i>	business facility in 2023, by 30 June 2024; <i>X</i> may apply to deregister as a registered person, and to deregister the business facility as a reportable facility and a taxable facility of <i>X</i> <i>Y</i> must apply to be registered as a registered person and for the business facility to be registered as a reportable facility and a taxable facility of <i>Y</i> , within 30 days after the transfer of operational control; <i>Y</i> is treated as having submitted a monitoring plan, based on <i>X</i> 's approved monitoring plan
2025	25,000 or more	<i>X</i> must submit an emissions report for the GHG emissions of the business facility in 2024 up to the date mentioned in section 11(2)(c), by 30 June 2025	<i>X</i> must submit an emissions report for the GHG emissions of the business facility in 2024 up to the date immediately before the date of the transfer of operational control, by 30 June 2025 (unless new section 11(2C) applies) <i>Y</i> must submit an emissions report for the GHG emissions of the business facility from the date of transfer of operational

			control up to 31 December 2024, by 30 June 2025 (unless new section 11(2C) applies)
2026	25,000 or more	<i>Y</i> must apply to be registered as a registered person and for the business facility to be registered as a reportable facility and a taxable facility of <i>Y</i> , by 30 June 2026; <i>Y</i> must submit a monitoring plan by 31 December 2026	<i>Y</i> must submit a verified emissions report for the GHG emissions of the business facility in 2025, by 30 June 2026
2027	25,000 or more	<i>Y</i> must submit a verified emissions report for the GHG emissions of the business facility in 2026, by 30 June 2027	<i>Y</i> must submit a verified emissions report for the GHG emissions of the business facility in 2026, by 30 June 2027

Where, at the time of the transfer of operational control from *X* to *Y*, *X* does not have an approved monitoring plan, *Y* must apply to be registered as a registered person and for the business facility to be registered as a reportable facility and a taxable facility of *Y*, no later than the later of 30 June of the year of the transfer of operational control, and 30 days after the transfer of operational control (new section 8(1)(a)(ii)(B)).

Where, at the time of the transfer of operational control from *X* to *Y*, if the business facility is registered only as a reportable facility of *X*, *Y* need only apply to be registered as a registered person and for the business facility to be registered as a reportable facility of *Y*, no later than 30 June of the year immediately after the year of the transfer of operational control (new section 8(1)(a)(ii)(A)). Whether and when *Y* must register the business facility as a taxable facility of *Y* is determined by section 7 (as amended by clause 3) and new section 8(1)(a)(i).

To enable the above changes in obligations of *X* and *Y*, whether the GHG emissions of the business facility attain the first threshold or the second threshold in any year is no longer tied to *X* or *Y* (as the case may be) having operational

control over business facility for the whole year. The reporting periods are tied to operational control over the business facility. For the year in which the transfer of operational control takes place, *Y* may with the approval of the National Environment Agency (Agency) add *X*'s reporting period to its reporting period (new section 11(2C)).

Clause 5 amends section 9 to allow deregistration of a business facility as a reportable facility or a taxable facility if the registered person of the business facility, despite having operational control over the business facility, is no longer operating the business facility. Clause 5 further amends section 9 to empower the Agency to deregister any registered person, and any reportable facility and taxable facility of the registered person, if the Agency is satisfied that the registered person has been wound up or dissolved or has otherwise ceased to exist.

Clause 9 amends section 16 to alter the basis on which the carbon tax is to be charged, taking into consideration the changes to the registration and emissions reporting requirements made by clauses 3, 4, 7 and 8. Where *X* transfers operational control over a business facility to *Y* in any year, the carbon tax is to be calculated based on the total reckonable GHG emissions of the business facility for the whole of that year (emissions year) as set out in the verified emissions reports of *X* and *Y* (or of *Y* if the new section 11(2C) applies). *Y* is liable for the whole of the carbon tax for the emissions year (whether the verified emissions reports are submitted by *X* and *Y* for their respective reporting periods in the emissions year, or only by *Y* pursuant to the new section 11(2C)).

Clause 10 amends section 17 to provide, in connection with the payment of the carbon tax, for the surrender of eligible international carbon credits in place of fixed-price carbon credits. Clause 10 also makes consequential amendments to section 17.

Clause 11(*d*) amends section 19 to provide for various matters concerning the making of refunds of the carbon tax paid, in particular where the carbon price of fixed-price carbon credits in the year of the payment of the carbon tax differs from the carbon price in the year of the refund. Clause 11 also makes various consequential amendments.

Clause 12 makes a consequential amendment to section 20(1)(*d*).

Clause 13 inserts new Division 1A in Part 5 to provide for the granting of allowances, that will reduce the amount of the carbon tax payable for any emissions year. This Division is administered by the Minister charged with responsibility for trade and industry, who may delegate certain of his or her functions and powers under the new Division to a public body, whether or not under the responsibility of the Minister. Where such a delegation is made, members of the public body who are not from the public sector must not be involved in the carrying out of the function or the exercising of the power so delegated to the public body.

Where a taxable facility of a registered person is eligible for an allowance, the registered person will be granted an award of allowances, which will set out the methodology by which the allowance for each emissions year covered by the award of allowances is to be determined. Based on the methodology specified for any emissions year, the Minister or public body will determine the actual quantum of the allowance for that emissions year.

Clause 14 amends section 21 to provide for the materials (other than past verified emissions reports) that the Agency may have regard to in assessing the total amount of reckonable GHG emissions of a business facility for an emissions year for which a registered person has not submitted a verified emissions report, or where any verified emissions report submitted is incomplete or inaccurate.

Clause 15 amends section 22 to clarify that the Agency may make an advance assessment even for the first emissions year for which the registered person is liable to pay the carbon tax. In such a situation, the Agency will not have issued any past assessments.

Clause 16 repeals and replaces section 24 to provide for the waiver of assessments of carbon tax, to take into account changes in the carbon price.

Clauses 17 to 24 make various consequential amendments to the Division headings of Divisions 3 and 4 of Part 5 and sections 26, 27, 28, 29, 30 and, 31.

Clause 25 inserts new section 31A to provide for the conversion of fixed-price carbon credits in the fixed-price carbon registry account of a registered person, where these were purchased at a certain carbon price, and remain in that account when there is a change in the carbon price.

Clauses 26 and 27 makes various consequential amendments to sections 32 and 33.

Clause 28 inserts new Divisions 5 and 6 in Part 5 to provide for various matters concerning eligible international carbon credits, the International Carbon Credits Registry and international carbon credit registry accounts.

Clauses 29 makes a consequential amendment to section 34.

Clause 30 amends section 37 on appeals to the General Division of the High Court, to take into account changes in the carbon tax rate.

Clauses 31, 32 and 33 make various consequential amendments to sections 41, 42 and 44.

Clause 34 amends section 75 to empower the Agency to extend the time required for anything to be done under the Act by a person, even after the time sought to be extended has expired. However, the person must have applied to the Agency for the extension of time before the expiry of that time.

Clause 35 makes a consequential amendment to section 76.

Clause 36 deletes item 1 (nitrogen trifluoride) in Part 2 of the Second Schedule. This is to make emissions of nitrogen trifluoride reckonable GHG emissions.

Clause 37 amends Third Schedule to provide for revisions to the carbon tax rate and the carbon price.

Clause 38 makes various consequential amendments to the Fifth Schedule.

Clause 39 empowers the Minister for Sustainability and the Environment to make regulations to provide for matters of a saving or transitional nature consequent on the enactment of any provision of this Act.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
