

# **Carbon Pricing Bill**

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**Bill No. 17/2018.**

*Read the first time on 2 March 2018.*

## **CARBON PRICING ACT 2018**

**(No. of 2018)**

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A BILL

*intituled*

An Act to require the reporting of, and the payment of a tax in relation to, greenhouse gas emissions, and to make consequential and related amendments to the Energy Conservation Act (Chapter 92C of the 2014 Revised Edition).

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

PART 1  
PRELIMINARY

**Short title and commencement**

5     **1.** This Act is the Carbon Pricing Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**General interpretation**

**2.—(1)** In this Act, unless the context otherwise requires —

10     “accredited external auditor” means any person accredited by the Agency as an accredited external auditor in accordance with regulations;

“Agency” means the National Environment Agency established by the National Environment Agency Act (Cap. 195);

“Appeal Panel” means an Appeal Panel mentioned in section 38;

15     “appellant” means any person that makes an appeal under Part 6 against a decision of the Agency;

“authorised officer” means an authorised officer appointed under section 6(2);

“carbon credit” means a carbon credit mentioned in section 26;

20     “carbon dioxide equivalence”, in relation to any greenhouse gas, means the mass of the greenhouse gas multiplied by its global warming potential set out opposite the greenhouse gas in the third column of the First Schedule;

“carbon price” means the value of a carbon credit;

25     “electronic record” has the same meaning as in the Electronic Transactions Act (Cap. 88);

“electronic transactions service” means any electronic transactions service provided for in regulations;

“emissions report” means an emissions report mentioned in section 11, and includes a verified emissions report;

“excluded GHG emission” means any GHG emission that is —

- (a) a greenhouse gas specified in the first column of Part 3 of the Second Schedule; and
- (b) emitted in the circumstances described in the second column of Part 3 of that Schedule opposite the greenhouse gas;

5

“first emissions threshold” means the first emissions threshold specified in Part 1 of the Second Schedule;

“GHG emission”, in relation to any business facility, means any greenhouse gas emitted into the atmosphere directly from the business facility;

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“greenhouse gas” means any greenhouse gas specified in the first column of the First Schedule and having the chemical formula specified in the second column of that Schedule opposite the greenhouse gas;

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“monitoring plan” includes a monitoring plan that is revised under section 13(4), except in section 12(3)(a);

“non-reckonable GHG emission” means any GHG emission that is —

- (a) a greenhouse gas specified in the first column of Part 2 of the Second Schedule; and
- (b) emitted in the circumstances described in the second column of Part 2 of that Schedule opposite the greenhouse gas;

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“public authority” means —

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- (a) an Organ of State or a public officer of the Organ of State;
- (b) a ministry or department of the Government or a public officer of the ministry or department; or
- (c) a public authority established under any public Act for a public purpose or an officer or an employee of the public authority;

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“reckonable GHG emission” means any GHG emission other than a non-reckonable GHG emission;

“registered person” means a person registered under section 7;

5 “registry account” means a registry account for a taxable facility of a registered person that is opened by the Agency in the Carbon Credits Registry under section 31;

“regulations” means regulations made under section 76;

“reportable facility” means a business facility that is registered as a reportable facility under section 7;

10 “reporting period” means any period mentioned in section 11 as a reporting period;

“second emissions threshold” means the second emissions threshold specified in Part 1 of the Second Schedule;

“tax” means the carbon tax imposed under this Act;

15 “taxable facility” means a business facility that is registered as a taxable facility under section 7;

“tCO<sub>2</sub>e” means metric tonnes of carbon dioxide equivalence;

“verified emissions report” means an emissions report verified under section 12.

20 (2) In this Act —

(a) a reference to a business facility of a registered person is a reference to a business facility that is registered as a reportable facility or a taxable facility of the registered person, as the case may be;

25 (b) a reference to a reportable facility of a registered person is a reference to a business facility that is registered as a reportable facility of the registered person; and

30 (c) a reference to a taxable facility of a registered person is a reference to a business facility that is registered as a taxable facility of the registered person.

(3) In this Act —

- (a) a reference to a verified emissions report that is inaccurate includes a reference to a verified emissions report that is based on a monitoring plan that is inaccurate; and
- (b) a reference to a monitoring plan that is inaccurate includes a reference to a monitoring plan that has not been revised under section 13(4) in the prescribed circumstances, as from such date as may be prescribed (not being a date earlier than the date of those prescribed circumstances).

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### **Meaning of “business facility”**

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3.—(1) A business facility is a single site at which any business activity is carried out.

(2) In this Act, “business activity” means any activity or series of activities (including ancillary activities) —

- (a) that involves the emission of greenhouse gas; and
- (b) that forms a single undertaking or enterprise, having regard to any circumstances prescribed.

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(3) For the purpose of subsection (1), where a business activity is a series of activities that is carried out at more than one parcel of land, the business activity is treated for the purposes of this Act as carried out at a single site if the same person has operational control over the business activity, and —

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- (a) the parcels of land are contiguous, adjacent or adjoining, or separated only by any road or pathway (whether or not providing access to the business facility), or drain or waterway; or
- (b) where paragraph (a) does not apply, there is a dependency between the activities carried out on the parcels of land, having regard to any circumstances prescribed.

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(4) A series of activities may be treated as forming a single undertaking or enterprise for the purpose of subsection (2)(b) even if —

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(a) any one of the activities in the series is, or any 2 or more activities in the series are, capable of being carried out as a separate and distinct business activity; or

(b) the activities in the series are from more than one industry sector to which this Act applies.

(5) To avoid doubt, there can be more than one business facility at any parcel of land for the purposes of this Act.

### **Meaning of “operational control”**

4.—(1) A person has operational control over a business facility if the person has the authority to introduce and implement, for the business activity carried out at the business facility (including a business activity that is carried out wholly or partly by a related party of the person), one or more of the following:

(a) operating policies;

(b) health and safety policies;

(c) environmental policies.

(2) Only one person can have operational control over a business facility at any one time.

(3) If more than one person satisfies subsection (1) at any one time, then the person that has the greatest authority to introduce and implement the policies mentioned in that subsection is taken for the purposes of this Act, to have operational control over the business facility.

## **PART 2**

### **APPLICATION AND ADMINISTRATION**

#### **Application of Act**

5.—(1) This Act applies only to industry sectors prescribed.

(2) Except as provided in subsection (3), this Act binds the Government.

(3) Nothing in this Act renders the Government liable to prosecution for an offence under this Act.

(4) To avoid doubt, a person is not immune from prosecution for any offence under this Act by reason only that the person is engaged to provide services to or on behalf of the Government. 5

### **Administration of Act**

6.—(1) The Agency is responsible for the administration and enforcement of this Act, subject to the general or special directions of the Minister.

(2) The Agency may appoint, by name or office, any officer or employee of the Agency to be an authorised officer to carry out such function or duty, or exercise such power, conferred on an authorised officer under this Act, as the Agency may specify. 10

## PART 3

### REGISTRATION OF PERSONS AND BUSINESS FACILITIES 15

#### **Obligation to apply to register as registered person, and to register business facility as reportable facility and taxable facility**

7.—(1) Where the total amount of reckonable GHG emissions of a business facility has a carbon dioxide equivalence that attains the first emissions threshold (or higher) 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 must apply to the Agency — 20

- (a) to be registered as a registered person;
- (b) to register the business facility as a reportable facility of the registered person; and 25
- (c) if the carbon dioxide equivalence of the total amount of reckonable GHG emissions from the business facility also attains the second emissions threshold (or higher) in the same trigger year, to register the business facility as a taxable facility of the registered person. 30

(2) Subsection (1)(a) does not apply if —

- (a) the person is already a registered person; or
- (b) the business facility will cease to be under the operational control of the person by the time the person must make the application under section 8.

(3) Subsection (1)(b) does not apply if the business facility is already registered as a reportable facility of the registered person.

(4) Subsection (1)(c) does not apply if the business facility is already registered as a taxable facility of the registered person.

(5) For the purposes of subsection (1), a trigger year is 2018 or a subsequent year.

### **Applications for registration**

**8.—(1)** An application for a registration under section 7 must —

- (a) be made before 30 June of the year immediately after the trigger year;
- (b) identify the person and the business facility in question;
- (c) contain any information prescribed by regulations for assessing applications made under this section, and any other information required by the Agency to assess the particular application; and
- (d) be in the form and manner required by the Agency.

(2) Upon an application being made under this section, the Agency must register the person as a registered person, and the business facility as a reportable facility or taxable facility of the registered person (as the case may be), unless the application is incomplete or not made in accordance with subsection (1).

(3) To avoid doubt, the Agency may treat an application to register a business facility as a taxable facility as also an application to register the business facility as a reportable facility, if the business facility is not already registered as a reportable facility.

(4) A registration under this section is in force starting on the date of registration, until deregistration under section 10.

**Entitlement to apply to deregister as taxable facility, reportable facility, and as registered person**

9.—(1) A registered person may apply to the Agency to deregister a business facility as a taxable facility of the registered person if —

- (a) the registered person ceases to have operational control over the business facility; 5
- (b) the total amount of reckonable GHG emissions from the business facility has a carbon dioxide equivalence that does not attain the second emissions threshold for each of 3 consecutive years; or 10
- (c) where any modification (including by way of additions and removals) to any work process at the business facility, or to any building or infrastructure of the business facility, is completed and —
  - (i) the total amount of reckonable GHG emissions from the business facility in the year in which the modification is completed has a carbon dioxide equivalence that does not attain the second emissions threshold; and 15
  - (ii) the total amount of reckonable GHG emissions from the business facility has a carbon dioxide equivalence that is unlikely to attain the second emissions threshold in each of the 2 consecutive years immediately following. 20

(2) Without affecting subsection (1)(a), a registered person must give the Agency advance notice in writing of the date that the operational control that the person has over the business facility is to cease, at least 45 days before that date. 25

(3) A registered person may apply to the Agency to deregister a business facility as a reportable facility of the registered person if — 30

- (a) the registered person ceases to have operational control over the business facility;
- (b) the total amount of reckonable GHG emissions from the business facility has a carbon dioxide equivalence that does

not attain the first emissions threshold for each of 3 consecutive years; or

(c) where any modification (including by way of additions and removals) to any work process at the business facility, or to any building or infrastructure of the business facility, is completed and —

(i) the total amount of reckonable GHG emissions from the business facility in the year in which the modification is completed has a carbon dioxide equivalence that does not attain the first emissions threshold; and

(ii) the total amount of reckonable GHG emissions from the business facility has a carbon dioxide equivalence that is unlikely to attain the first emissions threshold in each of the 2 consecutive years immediately following.

(4) A registered person may apply to the Agency to deregister as such if there is no longer any business facility registered as a reportable facility of the registered person.

### **Applications to deregister**

**10.**—(1) An application for deregistration under section 9 must —

(a) identify the registered person and the business facility in question;

(b) contain any information prescribed by regulations for assessing applications made under this section, and any other information required by the Agency to assess the particular application; and

(c) be in the form and manner required by the Agency.

(2) The Agency may refuse to accept any application that is incomplete or not made in accordance with subsection (1).

(3) To avoid doubt, a deregistration of a business facility as a taxable facility or reportable facility of a registered person does not affect any obligation or liability that the registered person acquired or incurred,

or that accrued to the registered person, under this Act in relation to the taxable facility or reportable facility, as the case may be, before the deregistration as such.

(4) The Agency must not deregister a registered person as such if the registered person has not discharged all obligations and liabilities under this Act (whether under Part 4 or 5 or otherwise) that the person acquired or incurred, or that accrued to the person, in relation to a taxable facility or reportable facility of the person as a registered person.

## PART 4

### GHG EMISSIONS REPORTING REQUIREMENTS

#### *Division 1 — Emissions reporting*

#### **Emissions reports**

**11.—**(1) A registered person must submit to the Agency for the Agency's approval, emissions reports relating to the GHG emissions (other than excluded GHG emissions) of every business facility that is a reportable facility of the registered person.

(2) For the purpose of subsection (1), an emissions report must be submitted for each of the following periods relating to each such business facility (each called a reporting period):

- (a) the whole of the year in which the business facility is registered as a reportable facility;
- (b) each year subsequent to the year in paragraph (a) but before the year in paragraph (c);
- (c) for the year in which the reportable facility is deregistered as such, from 1 January of that year up to and including the earlier of the following:
  - (i) the day immediately before the day of deregistration;
  - (ii) (if applicable) the day immediately before the day on which the reportable facility ceases or is likely to cease to be under the operational control of the registered person.

(3) To avoid doubt, the obligation to submit an emissions report in accordance with this Part arises at the end of the reporting period for which the emissions report must be submitted.

### **Emissions reports required to be verified**

5     **12.**—(1) Subject to subsection (3), where the business facility is a taxable facility of a registered person, an emissions report mentioned in section 11 for the business facility must —

(a) be prepared based on a monitoring plan specified in section 13(1);

10     (b) subject to subsection (2), be verified by an accredited external auditor; and

(c) when the emissions report is submitted under section 11 to the Agency for the Agency’s approval, be accompanied by a report by the accredited external auditor of its verification.

15     (2) The emissions report in subsection (1) need not be verified by the accredited external auditor insofar as it relates to any non-reckonable GHG emission of the business facility.

(3) The emissions report in subsection (1) need not be verified insofar as it relates to any reporting period, or any part of a reporting period, that falls —

(a) before the approval of the Agency under section 13 for the monitoring plan; or

(b) after the deregistration of the business facility as a taxable facility of the registered person.

### 25     **Monitoring plans**

**13.**—(1) For the purpose of section 12(1)(a), the monitoring plan for a business facility that is a taxable facility of a registered person must —

30     (a) set out the basis on which the registered person ensures the quality of the data required for the computations necessary for an emissions report for the business facility; and

(b) be submitted to and approved by the Agency.

(2) Before granting an approval under subsection (1)(b), the Agency may, in any of the following circumstances, in writing direct the registered person to have its monitoring plan first assessed by an external auditor:

- (a) the Agency considers that specialised technical knowledge is required to assess any process at the business facility; 5
- (b) the Agency disagrees with the registered person on any matter set out in the monitoring plan,

and the registered person must comply with the direction.

(3) Where subsection (2) applies, the registered person must submit to the Agency, within the time specified in the direction under that subsection, the report by the external auditor containing the external auditor's assessment. 10

(4) The registered person must, in the prescribed circumstances, revise a monitoring plan approved by the Agency. 15

(5) Where the Agency approves any monitoring plan (including one rectified or recomputed under section 14(1) or 15(2)), the Agency must specify the date (whether a date before, on or after the date on which the approval is actually granted) from which the monitoring plan has effect for the purposes of section 12(1)(a). 20

(6) Any approval given by the Agency for a monitoring plan for a taxable facility of a registered person ceases to be valid with effect from the deregistration of the taxable facility as such.

*Division 2 — Inaccurate, etc., emissions reports and monitoring plans, etc.* 25

**Inaccuracies, etc., in emissions reports and monitoring plans, etc., identified by Agency**

**14.—**(1) The Agency may, in respect of any incomplete or inaccurate emissions report or monitoring plan, in writing direct the registered person to do all of the following, within the time period specified in the direction or such longer time as the Agency may allow in any particular case: 30

(a) carry out such rectification or recomputation as the Agency may require;

(b) resubmit the report or plan for the Agency's approval, and the registered person must comply with the direction.

5 (2) The Agency may, in respect of —

(a) any verification of an emissions report by an accredited external auditor; or

(b) any report by an accredited external auditor of a verification in paragraph (a),

10 that does not comply with any requirement imposed under this Act, in writing direct the registered person submitting the emissions report to have the emissions report re-verified by the accredited external auditor or the report of the accredited external auditor rectified, or both, within the time period specified in the direction or such longer time as the  
15 Agency may allow in any particular case; and the registered person must comply with the direction.

(3) The Agency may, in respect of —

(a) any assessment of a monitoring plan by an external auditor; or

20 (b) any report by an external auditor of an assessment in paragraph (a),

that does not comply with any requirement imposed under this Act, in writing direct the registered person submitting the monitoring plan to have the monitoring plan re-assessed or the report of the external  
25 auditor rectified, or both, within the time period specified in the direction or such longer time as the Agency may allow in any particular case; and the registered person must comply with the direction.

30 **Inaccuracies, etc., in emissions reports and monitoring plans identified by registered person**

15.—(1) Where a registered person discovers any error or omission in any emissions report or monitoring plan prepared by the registered person (whether or not already approved by the Agency), the

registered person must notify the Agency of the error or omission within 7 working days after the discovery and provide the following in the notification:

(a) a description of —

(i) the error or omission, and the correction that is to be made or, where applicable, that has been made; and 5

(ii) the circumstances that led to the error or omission;

(b) where applicable, the GHG emissions of the business facility of the registered person to which the emissions report relates, and their respective amounts, represented by the error or omission. 10

(2) Upon receipt of a notification under subsection (1), the Agency may in writing direct the registered person to resubmit for the Agency's approval, within the period specified in the direction or such longer time as the Agency may allow in any particular case, a rectified or recomputed emissions report or monitoring plan that incorporates corrections specified by the Agency in the direction; and the registered person must comply with the direction. 15

(3) The Agency may, in the direction under subsection (2), also require, as the case may be — 20

(a) the rectified or recomputed emissions report to be verified by an accredited external auditor; or

(b) the rectified or recomputed monitoring plan to be assessed by an external auditor,

and for the registered person to submit a report of the verification by the accredited external auditor, or the assessment by the external auditor to the Agency, together with the rectified or recomputed emissions report or monitoring plan. 25

## PART 5

## CARBON PRICING

*Division 1 — Carbon tax***Carbon tax**

5     **16.**—(1) A tax, called the carbon tax, is charged on the total amount of reckonable GHG emissions 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.

10    (2) Subsection (1) does not apply if the total amount of the reckonable GHG emissions in that reporting period does not attain the second emissions threshold.

(3) The amount of the tax charged under subsection (1) is calculated based on the formula  $A \times B$ , where —

15       (a) A is the carbon dioxide equivalence of the total amount of the reckonable GHG emissions mentioned in subsection (1), rounded up to the nearest metric tonne; and

(b) B is the carbon tax rate specified in Part 1 of the Third Schedule.

20    (4) The tax charged under subsection (1) accrues as a liability of the registered person at the end of the reporting period in question, and must be paid by the registered person in accordance with this Part.

**Payment of tax and penalty**

**17.**—(1) The tax for a reporting period must be paid —

25       (a) against an assessment pursuant to section 21(1) or (2), by the later of —

(i) 30 September of the year immediately following the reporting period; or

30       (ii) 30 days after the date of service on the registered person of the notice of assessment; and

- (b) against any other assessment, within 30 days after the date of service on the registered person of the notice of assessment.
- (2) The payment under subsection (1) must be made —
- (a) by the surrender of carbon credits; or 5
- (b) if, at the time of payment, the registry account for the taxable facility in relation to which the tax is charged is suspended or closed, in the form and manner required by the Agency.
- (3) The number of 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, rounded to the nearest carbon credit. 10
- (4) If a registered person fails to make full payment of the tax in accordance with subsection (2) within the time specified under subsection (1) — 15
- (a) a financial penalty of 5% of the amount of tax assessed and remaining unpaid, is payable in addition to the tax that remains unpaid;
- (b) the Agency must serve a demand note on the registered person and if payment is not made within 30 days after the date of the service of the demand note, the Agency may proceed to enforce payment of the tax and penalty under this Act; and 20
- (c) despite paragraphs (a) and (b), if the amount of tax remaining unpaid is not paid within 60 days after the imposition of the financial penalty under paragraph (a), an additional financial penalty of 1% of the amount of tax remaining unpaid is payable for each completed month that the tax remains unpaid, but not exceeding triple the amount of tax remaining unpaid in total. 25 30
- (5) The amount of tax remaining unpaid and any financial penalty must be paid to the Agency in the form and manner required by the Agency.

### **Relief or remission from tax or penalty**

**18.**—(1) The Agency may, if the Agency thinks that it is just and equitable to do so, and upon such conditions as the Agency may impose, give to any registered person any relief or remission from —

- 5           (a) the tax or any part of the tax to which the registered person has been assessed to be liable; or
- (b) any financial penalty or part of any financial penalty to which the registered person is liable under section 17(4).

10       (2) The Minister may, upon such conditions as the Minister may impose, give to any registered person any relief or remission from —

- (a) the tax or any part of the tax to which the registered person has been assessed to be liable; or
- (b) any financial penalty or part of any financial penalty to which the registered person is liable under section 17(4).

### 15 **Refund of tax, etc.**

**19.**—(1) Where —

- (a) a registered person has surrendered carbon credits for any tax charged in relation to a taxable facility of the registered person; and
- 20       (b) the tax charged is reduced as a result of —
- (i) any relief or remission given to a registered person under section 18; or
- (ii) any revision under section 23 to an assessment of tax,

25       the registered person may apply to the Agency for a refund of the amount of tax so reduced.

(2) For the purpose of subsection (1), if —

- (a) the registered person continues to hold a registry account for the taxable facility; and

- (b) the revision was to correct an error that was not on the part of the Agency,

then, the Agency must effect the refund by crediting the registry account for the taxable facility with the number of carbon credits with a total carbon price equal to the amount of tax so reduced. 5

(3) An application under subsection (1) must be made within 4 years after the date on which the relief or remission is given, or the revision is made, as the case may be.

(4) Where any refund has been erroneously made or any carbon credit erroneously credited pursuant to subsection (1) or (2), the registered person refunded or whose registry account was credited with the carbon credit must pay to the Agency an amount equal to the amount of the erroneous refund or the carbon price of the carbon credit erroneously credited, upon demand being made by the Agency within 4 years after the date of the erroneous refund or credit. 10 15

(5) Nothing in this section operates to extend any time limit for an appeal or to validate any objection or appeal that is otherwise invalid, or to authorise the revision of any assessment or other matter that has become final and conclusive.

**Recovery of tax and penalty, etc.** 20

**20.**—(1) Despite the provisions of any other written law —

- (a) any tax remaining unpaid;
- (b) any financial penalty imposed under section 17(4);
- (c) any amount demanded under section 17(4) that is not paid within the time specified in the demand; and 25
- (d) any amount of refund erroneously made or any amount equal to the carbon price of any carbon credit erroneously credited, mentioned in section 19,

is recoverable as a debt due to the Government and the Agency may, in the name of the Agency, sue for such tax, financial penalty or amount. 30

(2) For the purposes of section 33(2) of the Limitation Act (Cap. 163), any financial penalty imposed under section 17(4) is treated as interest on tax.

5 (3) To avoid doubt, section 6(4) of the Limitation Act does not apply to any financial penalty imposed under section 17(4).

## *Division 2 — Assessments of tax*

### **Assessments by Agency**

10 **21.**—(1) Upon approving a verified emissions report for a taxable facility of a registered person for a reporting period, the Agency must assess —

(a) the tax charged under section 16(1) for the reporting period; and

(b) the number of carbon credits that the registered person must surrender to pay the tax.

15 (2) Where the Agency is of the opinion that a registered person is liable to pay the tax for a reporting period and —

(a) the registered person has not submitted a verified emissions report for the reporting period for the Agency's approval as required by section 11(1); or

20 (b) the verified emissions report submitted by the registered person 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 end of the reporting period,

25 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 taxable facility to which the tax relates.

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(4) An assessment under subsection (2) does not affect any liability of the registered person under this Act in relation to the registered

person's failure to submit a verified emissions report or a registered person's submission of a verified emissions report that is incomplete or inaccurate.

(5) Upon making an assessment under subsection (1) or (2), the Agency must serve a notice of assessment on the registered person that sets out the matters in subsection (1).

5

### **Advance assessments**

**22.**—(1) Despite section 21, where the Agency is notified that a registered person will cease, or is otherwise of the opinion that a registered person has ceased or is likely to cease, to have operational control over a taxable facility, the Agency may, to the best of the Agency's judgment, assess the matters mentioned in section 21(1) for the taxable facility in relation to 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.

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15

(2) In making an assessment under subsection (1), the Agency may have regard to any verified emissions report (whether or not approved by the Agency) previously submitted to the Agency for the taxable facility.

### **Revision of assessments**

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**23.**—(1) The Agency may revise any assessment (whether made under section 21 or 22 and whether revised previously under this section) if —

(a) the Agency is of the opinion that the assessment is no longer accurate, including —

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(i) where the Agency approves a verified emissions report after an assessment under section 21(2); or

(ii) where the Agency approves any change to an approved verified emissions report on which the assessment was based; or

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(b) the registered person on whom the notice of assessment has been served raises any objection to the assessment, and,

upon consideration of such objection, the Agency agrees with the objection.

5 (2) A revision under subsection (1)(a) must be made within 4 years after the date of the service of the notice of assessment for the assessment sought to be revised.

(3) For the purpose of subsection (1)(b), the registered person must submit a notice of objection in writing to the Agency —

(a) within 30 days after the date of the service of the notice of assessment for the assessment sought to be revised; and

10 (b) stating precisely the grounds of objections.

(4) If the Agency is satisfied that there is any good reason to do so, the Agency may extend the period mentioned in subsection (3)(a).

(5) For the purpose of considering any notice of objection, the Agency may —

15 (a) require the registered person that gave the notice —

(i) to provide such particulars as the Agency may consider necessary with respect to the GHG emissions of the taxable facility in question; and

20 (ii) to produce all books or other documents in its custody relating to such GHG emissions; and

(b) summon any person that the Agency thinks is able to give evidence respecting the assessment to attend before the Agency or any authorised officer, who may examine the person on oath or otherwise.

25 (6) If the Agency refuses to revise an assessment pursuant to subsection (1)(b), the Agency must serve on the registered person a notice of refusal to revise the assessment.

30 (7) Upon revising an assessment under subsection (1), the Agency must serve on the registered person a notice of assessment for the assessment as revised, for the matters mentioned in section 21(1).

### **Waiver of small assessments**

**24.** Where it appears to the Agency that the amount of any tax or additional tax to which any registered person is liable does not exceed \$15 or such higher amount as may be prescribed in substitution, the Agency may waive the assessment of such tax. 5

### **Mistakes in assessment**

**25.** If the provisions of this Act are in substance and effect complied with, no assessment, charge or demand for any tax is to be quashed or affected by reason of any mistake in —

- (a) the name of any registered person liable to pay the tax; or 10
- (b) the amount of tax assessed as charged.

## *Division 3 — Carbon credits*

### **Carbon credits**

**26.—**(1) The carbon price of a carbon credit is specified in Part 2 of the Third Schedule. 15

(2) Except as permitted under this Act, a carbon credit cannot be sold, transferred, assigned or otherwise disposed of or dealt with.

### **Crediting of carbon credits**

**27.—**(1) Subject to section 32, the Agency must credit into the registry account for a taxable facility of a registered person, such number of carbon credits that the registered person applies and pays for, in relation to that registry account. 20

(2) A registered person may apply to the Agency to transfer any carbon credit from a registry account for any of its taxable facilities to the registry account for any of its other taxable facilities. 25

### **Surrender of carbon credits**

**28.—**(1) Subject to section 32, a registered person may surrender one or more carbon credits in the registry account for a taxable facility of the registered person, in payment of the tax payable by the registered person in relation to the taxable facility. 30

(2) The Agency must, in respect of every carbon credit surrendered under subsection (1), remove the carbon credit from the registry account, and the registered person is treated as having paid the tax in relation to the taxable facility, to the extent of the total carbon price of the carbon credits so surrendered and removed.

### **Cancellation of carbon credits**

**29.**—(1) Where —

(a) a registered person has failed to pay any tax in accordance with section 17 in relation to any taxable facility of the registered person; and

(b) the registered person has any carbon credit in the registry account for that taxable facility,

the Agency may cancel the carbon credit and remove it from the registry account, and the registered person is treated as having paid the tax in relation to the taxable facility to the extent of the carbon price of the carbon credit so cancelled and removed.

(2) Where any carbon credit in a registry account for a taxable facility of a registered person has been obtained by the registered person through fraud or any other unlawful means, the Agency may cancel the carbon credit and remove it from the registry account.

(3) A registered person that has any carbon credit cancelled and removed under subsection (2) —

(a) is not treated as having paid any tax in relation to the taxable facility to which the registry account relates, to the extent of the carbon price of the carbon credit; and

(b) is not entitled to any refund on the carbon credit.

(4) The Agency must not exercise the power under subsection (1) or (2) without prior notice to the registered person.

### **Refunds on carbon credits**

**30.** A registered person is not entitled to any refund on any carbon credit except to the extent permitted by section 33.

*Division 4 — Carbon Credits Registry*

**Opening of registry account**

**31.** For the purpose of Division 3, the Agency must open, for each taxable facility of a registered person, a registry account in the Carbon Credits Registry and assign a unique identifier to the registry account. 5

**Suspension of registry account**

**32.—(1)** The Agency may suspend a registry account for a taxable facility of a registered person for a period not exceeding one year, if the Agency reasonably believes that —

- (a) any information given in relation to the registration of the taxable facility was false or misleading in any material particular; 10
- (b) there has been unauthorised access to the account;
- (c) the account is used or intended to be used for purposes of a criminal offence; or 15
- (d) any carbon credit in the account was obtained through fraud or any other unlawful means.

(2) For so long as a registry account is suspended —

- (a) no carbon credits may be purchased and credited into the account; 20
- (b) no carbon credits in the account may be transferred to another registry account under section 27(2) or surrendered under section 28; and
- (c) section 17(2)(b) applies to any tax required to be paid during the period of suspension. 25

(3) If the Agency is satisfied that there is good reason to do so, the Agency may —

- (a) extend the period of the suspension for any further period or periods, each not exceeding one year; or
- (b) lift the suspension before the period of suspension expires. 30

### **Closing of registry account**

**33.**—(1) The Agency may close a registry account for a taxable facility of a registered person in any of the following circumstances:

- 5 (a) upon the application of the registered person, if the taxable facility is deregistered as such;
- (b) if the Agency is satisfied that the account has been, is being or is intended to be used for the commission of any criminal offence;
- 10 (c) if the account has been inactive for 5 years from the last transaction carried out on the account;
- (d) if the person for whom the account was opened has ceased to be registered as a registered person;
- (e) in such other circumstances as may be prescribed.

(2) Before closing the registry account, the Agency must give the registered person written notice of the Agency's intention to do so if —

- (a) unless otherwise prescribed, the proposed closure is pursuant to subsection (1)(c) or (d); or
- 20 (b) the proposed closure is pursuant to circumstances prescribed under subsection (1)(e), and this subsection is prescribed as applying with respect to those circumstances.

(3) The written notice under subsection (2) must state —

- (a) the consequences of closing the registry account mentioned in subsection (6); and
- 25 (b) the date by which any written objection to the proposed closure must be given to the Agency, which must be a date at least 30 days after the date of the service of the notice.

(4) The Agency must not close the registry account if the Agency receives a written objection from the registered person to the proposed closure by the date mentioned in subsection (3)(b), unless the Agency is satisfied that the objection is frivolous or vexatious or has been withdrawn.

(5) The Agency may close the registry account if the Agency does not receive a written objection from the registered person by the date mentioned in subsection (3)(b).

(6) Upon closing the registry account of the registered person under this section, the Agency must — 5

(a) cancel any carbon credit remaining in the registry account and remove it from the registry account; and

(b) refund the registered person an amount equal to the carbon price of the carbon credit cancelled and removed.

(7) A registered person is not entitled to a refund under subsection (6) if the cancellation and removal resulted from the closure of the registry account under subsection (1)(b). 10

## PART 6

### APPEALS

#### *Division 1 — Appeals against decisions of Agency* 15

#### **Appeals to Minister**

**34.—**(1) A registered person that is aggrieved by a decision of the Agency —

(a) refusing to deregister a business facility as a taxable facility of the registered person; 20

(b) refusing to approve a verified emissions report or a monitoring plan for a business facility of the registered person;

(c) refusing to refund any tax under section 19(1) or credit any carbon credit into the registered person's registry account under section 19(2); or 25

(d) refusing to revise any assessment relating to the registered person pursuant to section 23,

may appeal against the decision to the Minister.

(2) An appeal under subsection (1) must be made by lodging with the Minister a written notice of appeal within 30 days after the date of service of the Agency's decision appealed against.

5 (3) The notice of appeal must provide adequate details of the grounds for the appeal.

(4) For the purpose of determining an appeal, the Minister may require any person to provide to the Minister such information within the person's knowledge, and any document in the person's possession or under the person's control, as the Minister considers relevant to the  
10 appeal.

(5) Where the Minister considers that an appeal under subsection (1) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, the Minister may establish an Appeal  
15 Panel to consider and determine the appeal.

### **Effect of appeal, etc.**

**35.** An appeal under section 34 does not suspend the effect of the decision appealed against unless otherwise provided in this Act, or allowed by the Minister subject to such conditions as the Minister may  
20 impose (including any condition for the provision of security).

### **Disposal of appeal**

**36.—**(1) Upon receipt of a notice of appeal under section 34, the Minister may dismiss the appeal if the Minister considers it to be trivial, frivolous or vexatious.

25 (2) Upon considering an appeal, the Minister or an Appeal Panel, as the case may be, may determine the appeal by —

(a) confirming, varying or reversing any decision of the Agency on appeal; or

30 (b) directing the Agency to reconsider the decision of the Agency on appeal.

(3) Unless section 37 applies, the determination of the Minister or an Appeal Panel under this Part is final.

## Appeals to High Court

**37.—**(1) The appellant or the Agency may appeal to the High Court from the decision of the Minister or an Appeal Panel under this Part upon any question of law or of mixed law and fact.

(2) Subsection (1) does not apply where the decision of the Minister or the Appeal Panel results in a change of less than \$500 in the amount of tax charged. 5

(3) The procedure governing and the costs of any such appeal to the High Court are as provided for in the Rules of Court.

(4) The High Court must hear and determine any such appeal and may confirm, vary or annul the decision of the Minister or the Appeal Panel (as the case may be) on appeal and make such further or other order on such appeal, whether as to costs or otherwise, as the High Court considers fit. 10

(5) There is such further right of appeal from decisions of the High Court under this section as exists in the case of decisions made by the High Court in the exercise of its original civil jurisdiction. 15

### *Division 2 — Appeal Panel*

#### **Composition and procedure of Appeal Panel**

**38.—**(1) An Appeal Panel established under section 34(5) must comprise at least 3 individuals, at least one of whom has particular technical or other specialised knowledge in respect of the issues in the appeal. 20

(2) The Minister must appoint one of the individuals of the Appeal Panel as the Chairman of the Appeal Panel. 25

(3) In establishing an Appeal Panel, the Minister may provide for —

(a) the terms and conditions of the membership of the Appeal Panel, including the remuneration and allowances, if any, of any member of the Appeal Panel (which are to form part of the expenses of the Agency); 30

(b) the procedure to be adopted by the Appeal Panel in considering any appeal referred to it; and

(c) any other matter that the Minister considers incidental or expedient for the proper and efficient conduct of an appeal by the Appeal Panel.

(4) An Appeal Panel is independent in the performance of its functions.

### **Powers of Appeal Panel**

**39.**—(1) An Appeal Panel has the powers, rights and privileges vested in a District Court on the hearing of an appeal, including —

(a) enforcing the attendance of witnesses and their examination on oath or otherwise;

(b) compelling the production of documents; and

(c) awarding such costs or expenses as may be prescribed.

(2) A summons signed by any member of the Appeal Panel authorised by the Appeal Panel for this purpose, is to be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(3) A witness before an Appeal Panel is entitled to the same immunities and privileges as if the witness were a witness before a District Court.

(4) Every member of the Appeal Panel, when and so long as the member acts as such, enjoys the same judicial immunity as is enjoyed by a District Judge.

(5) No appeal or proceeding before an Appeal Panel and no act of the Appeal Panel is affected merely because at the relevant time —

(a) there was a vacancy in the membership of the Appeal Panel, including a vacancy arising from a failure to appoint a member;

(b) there was some defect or irregularity existing in the appointment or continuance in office of an individual purporting to be a member of the Appeal Panel; or

- (c) there was an irregularity in the Appeal Panel’s procedure that does not affect the merits of the determination made.

## PART 7

### RECORDS AND REGISTERS

#### *Division 1 — Records to be kept by registered persons, etc.*

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#### **Maintenance of records**

**40.**—(1) Every registered person, accredited external auditor, and external auditor assessing any monitoring plan under section 13, must keep and maintain complete and accurate records containing such information and documents, and in accordance with such requirements, as may be prescribed.

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(2) The persons mentioned in subsection (1) must keep their respective records for at least the prescribed period and must, during the prescribed period —

- (a) make such records available for inspection by any authorised officer, as requested by the authorised officer; and
- (b) submit to any authorised officer any such records, and such other information and document, as requested by the authorised officer.

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#### *Division 2 — Registers to be kept by Agency*

#### **Registers to be kept and maintained by Agency**

**41.**—(1) The Agency must keep and maintain one or more registers, in which is or are entered such particulars as the Agency may determine, for the following:

25

- (a) registered persons;
- (b) reportable facilities of registered persons;
- (c) taxable facilities of registered persons;
- (d) registry accounts in the Carbon Credits Registry.

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

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

          (b) the number and carbon price of the carbon credits credited into the registry account, and the date of the crediting;

10          (c) the number and carbon price of the carbon credits surrendered by the registered person, and the date of the surrender;

          (d) the number and carbon price of the carbon credits in the registry account that are cancelled by the Agency, and the date of the cancellation;

          (e) such other information as may be prescribed.

15       (3) Any register mentioned in subsection (1) may be kept and maintained electronically.

          (4) Where there is a deregistration under section 10, or a registry account is suspended under section 32 or closed under section 33, the Agency may —

20           (a) remove the relevant register entry and the particulars under it, from the relevant register; or

          (b) indicate the fact of such deregistration, suspension or closure against the relevant register entry in the relevant register.

25       (5) Without affecting subsection (4), if the Agency is satisfied that —

          (a) any registered person is wound up or dissolved;

          (b) any registered person has ceased to have operational control over any reportable facility or taxable facility of the registered person; or

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- (c) any reportable facility or taxable facility has ceased to be under the operational control of any person,

the Agency may —

- (i) remove the relevant register entry and the particulars under it, from the relevant register; or 5
- (ii) indicate that fact against the relevant register entry in the relevant register.

### **Correcting or updating register on Agency's initiative**

42.—(1) Subject to subsection (2), the Agency may correct or update any particulars of any registered person, reportable facility, taxable facility or registry account entered in the relevant register if the Agency is satisfied that there is evidence of a conflict between the particulars and other information relating to the same — 10

- (a) in the possession or under the control of the Agency; or
- (b) obtained from such ministry or department of the Government, or statutory body or other body corporate, as may be prescribed. 15

(2) Except under prescribed circumstances, before the Agency corrects or updates any particulars under subsection (1), the Agency must — 20

- (a) inform the registered person to whom the particulars relate of the proposed correction or update; and
- (b) subject to subsection (3), obtain consent from the registered person to the proposed correction or update.

(3) The Agency need not obtain the consent in subsection (2)(b) if the Agency is satisfied that any refusal of consent is frivolous or vexatious. 25

### **Correcting or updating register on request**

43.—(1) A registered person may apply to the Agency to correct an error or omission of any particulars entered in a register maintained by the Agency. 30

(2) The Agency may, upon receiving an application under subsection (1), correct the error or omission if the Agency is satisfied that the error is typographical or clerical in nature.

5 (3) The decision made by the Agency on whether to correct any error or omission under subsection (2) is final.

### **Obligation to update changes to particulars**

10 **44.**—(1) Whenever a change is made or occurs in any prescribed particulars registered in respect of a registered person, or a reportable facility, taxable facility or registry account of a registered person, the registered person must notify the Agency of the change in accordance with subsection (2).

(2) The notice mentioned in subsection (1) must —

- 15 (a) specify the nature and date of the change;
- (b) contain such other information as may be prescribed;
- (c) be lodged within 14 days after the change, or such longer period as the Agency may allow in any particular case; and
- (d) be in such form and manner as the Agency may specify.

20 (3) The Agency may require any notice required by this section to be verified in such manner and by such person as the Agency considers fit.

(4) Upon verifying the notice, the Agency must update the register with the change in the particulars mentioned in the notice.

## **PART 8**

### **ADMINISTRATION AND ENFORCEMENT, ETC.**

25 *Division 1 — Powers of administration and enforcement, etc., and related offences*

#### **Interpretation of this Part**

30 **45.** In this Part, unless the context otherwise requires —  
 “computer” and “computer output” have the same meanings as in section 2(1) of the Computer Misuse Act (Cap. 50A);

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means; 5
- (d) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; 10
- (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and 15
- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them; 20

“writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

### **Entering premises, etc., to monitor compliance**

**46.—**(1) Subject to subsection (2), for the purpose of administering or enforcing this Act or determining whether this Act has been complied with, an authorised officer may — 25

- (a) enter any premises —
  - (i) during normal business hours without notice; or
  - (ii) at any other time after giving at least 6 hours’ previous notice to the occupier of the premises (unless the occupier of the premises has consented to a shorter period of notice); and 30

(b) exercise any of the powers set out in sections 47 and 48.

(2) Before exercising the power of entry under subsection (1), the authorised officer must —

(a) declare the office of the authorised officer; and

5 (b) produce to the person against whom the authorised officer is acting such identification card as the Agency may direct authorised officers to carry.

### **Power to demand names and addresses on entering premises**

10 **47.**—(1) An authorised officer who enters premises under section 46 may require any person found on the premises to —

(a) give the person's name and address and such other proof of identity; and

(b) provide such other particulars,

as the authorised officer may require for the purposes of this Act.

15 (2) Any person who, upon being required by the authorised officer to give the person's name and address or other proof of identity or to provide any particulars under subsection (1) —

(a) refuses to do so;

20 (b) wilfully misstates the person's name and address or proof of identity; or

(c) provides false particulars,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

### **Power to search premises, etc.**

**48.**—(1) Without affecting section 49, an authorised officer who enters premises under section 46 has full and free access to the premises and any thing at the premises, and may exercise all or any of the following powers:

30 (a) search the premises for any thing that may relate to compliance with this Act;

- (b) examine any activity conducted on the premises that may relate to compliance with this Act;
- (c) examine and check the operation of any thing on the premises that may relate to compliance with this Act;
- (d) take any photograph or make any video or audio recording or sketch on the premises of any such activity or thing; 5
- (e) carry out any inspection or test that may relate to compliance with this Act;
- (f) with such assistants and workmen as the authorised officer considers necessary — 10
  - (i) affix or bring onto the premises any meter or instrument and take any reading from the meter or instrument; or
  - (ii) take any reading from any meter or instrument on the premises; 15
- (g) require any person at the premises to do one or both of the following:
  - (i) provide any information within the knowledge of that person;
  - (ii) take reasonable steps to provide any document; 20
- (h) inspect any document, computer, computer program, computer software or computer output on the premises that may relate to compliance with this Act;
- (i) without payment, make copies of or take extracts from any such document, computer, computer program, computer software or computer output; 25
- (j) take onto the premises such equipment and materials as the authorised officer requires for the purpose of exercising any power under this section;
- (k) without payment, take possession of any thing on the premises where, in the opinion of the authorised officer — 30

- (i) the examination, inspection, checking, copying of or extraction from any part of such thing cannot reasonably be performed without taking possession;
- (ii) such thing may be interfered with or destroyed unless possession is taken; or
- (iii) such thing may be required as evidence in proceedings for a contravention of this Act or in proceedings for the recovery of any tax or penalty or in proceedings by way of an appeal against an assessment.

(2) An authorised officer may, in addition to the powers in subsection (1) —

- (a) require any person who is able to operate any thing at the premises to do so for the purpose of enabling the authorised officer to ascertain whether it, or a disc, tape or other storage device that can be used with or is associated with it, contains information that is relevant to assessing compliance with this Act;
- (b) if such information is found in exercise of the power in paragraph (a) —
  - (i) require the information to be provided in documentary form, and keep or copy the documents so provided; or
  - (ii) transfer, or require the transfer of, the information to a disc, tape or other storage device, and remove it from the premises; and
- (c) in respect of any thing that the authorised officer takes possession of, require any person at the premises to provide the authorised officer with or grant the authorised officer access to any information, code, software or technology required to operate or access data contained in such thing, or to retransform, unscramble or decrypt data contained in such thing into readable and comprehensive format or text.

(3) Any person who, without reasonable excuse, fails, neglects or refuses to comply with a requirement of an authorised officer under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.

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### **Power to require persons to provide information and documents**

**49.—**(1) For the purposes of administering or enforcing this Act or determining whether this Act has been complied with, an authorised officer may by notice in writing require any person to do one or both of the following:

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(a) to provide any authorised officer with any information within the knowledge of that person;

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(b) to provide any authorised officer with any document in the possession or under the control of the person.

(2) The notice in subsection (1) may —

(a) specify a time and place at which the person must provide the information or document, in the form and manner specified in the notice; or

20

(b) require the person to attend personally before any authorised officer, at a place and time specified in the notice, to provide the information or document, in the form and manner specified in the notice.

25

(3) To avoid doubt and without affecting the generality of subsections (1) and (2), the reference to a person in those subsections includes any energy supplier for the purpose of obtaining any information or document from the energy supplier in respect of the energy consumption data of any person or business facility that the energy supplier supplies energy to.

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(4) Any person that, without reasonable excuse, fails, neglects or refuses to comply with a notice of an authorised officer under this section shall be guilty of an offence and shall be liable on conviction

to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.

- 5 (5) In this section, “energy supplier” means any of the following:
- (a) any gas licensee under the Gas Act (Cap. 116A);
  - (b) any supplier of oil, fuel or other type of energy.

### **General power to require information or documents**

10 **50.—**(1) The power of an authorised officer to require a person to provide any information or document under section 48 or 49 includes the power —

- (a) to require the person, or any person who is or was an officer or employee of that person, to provide an explanation of the information or document;
- 15 (b) if the information or document is not provided, to require that person to state, to the best of the person’s knowledge and belief, from whom the information or document may be obtained or where it is;
- (c) if the information is recorded otherwise than in legible form, without payment, to require the information to be provided in legible form; and
- 20 (d) in the case of a document, without payment —
  - (i) to inspect, copy, or take extracts from, the document and, in relation to a document kept in electronic form, to inspect, copy, or take extracts from the document in legible form;
  - 25 (ii) to take possession of the document if in the opinion of the authorised officer —
    - 30 (A) the inspection, copying or extraction cannot reasonably be performed without taking possession of the document;

(B) the document may be interfered with or destroyed unless possession of the document is taken; or

(C) the document may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of any tax or penalty, or in proceedings by way of an appeal against an assessment; and

(iii) for the purposes of sub-paragraph (ii), to require the person to provide the authorised officer with or grant the authorised officer access to any information, code, software or technology required to access the document or data contained in the document, or to retransform, unscramble or decrypt data contained in the document into readable and comprehensive format or text.

(2) A statement made by any person providing information under section 48(1)(g) or 49(2)(b) must —

(a) be reduced to writing;

(b) be read over to the person;

(c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(d) after correction, if necessary, be signed by the person.

(3) A person is not obliged under section 48 or 49 to provide (including through the production of a document) —

(a) any information that the person is under any statutory obligation (other than sections 128, 128A, 129 and 131 of the Evidence Act (Cap. 97)) to observe secrecy; or

(b) any information subject to legal privilege.

(4) The generality of the term “reasonable excuse” in sections 48(3) and 49(4) is not affected by subsection (3).

(5) Except as provided under subsection (3), it is not a defence to a charge under section 48(3) or 49(4) for a failure to provide any

information or document sought in accordance with the provision, that the person is under a duty of secrecy in respect of that information or the contents of that document (called in this section a displaced duty of secrecy).

5 (6) A person that in good faith complies with a requirement or notice to provide any information or document is not to be treated as being in breach of a displaced duty of secrecy.

10 (7) No civil or criminal action for a breach of a displaced duty of secrecy, other than a criminal action for an offence under section 53(b), lies against a person —

(a) for providing any information or document if the person did so in good faith in compliance with a requirement or notice under section 48 or 49; or

15 (b) for doing or omitting to do any act if the person did or omitted to do the act in good faith and as a result of complying with such a requirement or notice.

### **Additional powers in determining if person or business facility is registrable**

20 **51.**—(1) Without affecting sections 46 to 50, an authorised officer may, for the purpose of ascertaining whether any person or any business facility is required to be registered under Part 3, by notice in writing, require the person to —

(a) carry out any test or inspection specified in the notice; and

25 (b) provide to any authorised officer a report of such test or inspection, within the time specified in the notice.

(2) Any person that, without reasonable excuse, fails to comply with a notice of an authorised officer under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

### **30 Obstructing Agency or authorised officer**

**52.** Any person that at any time hinders or obstructs the Agency or any authorised officer in the performance or execution of the duty of the Agency or authorised officer, or of any thing which the Agency or

authorised officer is empowered or required to do, under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

**False statements, forging of documentation, etc.**

5

**53.** Any person that —

- (a) makes or causes to be made any entry in a record, register or other document required to be kept under this Act which the person knows is false or misleading in any material particular; or
- (b) in response to any requirement or notice of an authorised officer under this Part, provides any information, document or statement that the person knows is false or misleading in any material particular,

10

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

15

*Division 2 — Other offences and penalties*

**Offences relating to registrations**

**54.—**(1) A person that fails to apply to register as a registered person where required by section 7 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

20

(2) A person that fails to apply to register a business facility under the person's operational control as a reportable facility where required by section 7 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

25

(3) A person that fails to apply to register a business facility under the person's operational control as a taxable facility where required by section 7 shall be guilty of an offence and shall be liable on conviction to a fine that is the total of the following:

30

(a) 10% of the tax for which the person would have been liable had the business facility been registered as a taxable facility;

(b) an amount not exceeding \$10,000,

5 and to a further penalty of \$50 for every day or part of a day during which the offence continues after conviction.

(4) A person that, in relation to an application for registration under this Act, makes or causes to be made any statement or declaration that the person knows is false or misleading in any material particular,  
10 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(5) A person that fails, without reasonable excuse, to comply with section 9(2) shall be guilty of an offence and shall be liable on  
15 conviction to a fine not exceeding \$10,000.

### **Offences relating to submissions of unverified emissions reports**

**55.**—(1) A person that fails to submit an emissions report, not being a verified emissions report, in accordance with section 11 shall be guilty of an offence and shall be liable on conviction to a fine not  
20 exceeding \$1,000, and to a further penalty of \$50 for every day or part of a day during which the offence continues after conviction.

(2) Without affecting subsection (1), a person that submits an emissions report, not being a verified emissions report, that is inaccurate shall be guilty of an offence and shall be liable on  
25 conviction to —

(a) a fine not exceeding \$10,000; and

(b) in the case of a second or subsequent offence, to a fine not exceeding \$20,000.

(3) Subsection (2) does not apply to any inaccuracy notified to the  
30 Agency under section 15(1).

### **Offences relating to submissions of verified emissions reports**

**56.—**(1) A person that fails to submit a verified emissions report in accordance with sections 11 and 12 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000, and to a further penalty of \$50 for every day or part of a day during which the offence continues after conviction. 5

(2) Without affecting subsection (1) and subject to subsections (3), (4) and (5), a person that —

(a) submits a verified emissions report that is inaccurate; or

(b) gives any incorrect information (including in the form of any document) in relation to any matter affecting the person's liability to tax arising out of the verified emissions report, 10

shall be guilty of an offence and shall be liable on conviction to a fine that is equal to the tax undercharged as a result of the inaccurate verified emissions report or incorrect information. 15

(3) Despite subsection (2), if the inaccurate verified emissions report was submitted or the incorrect information given without reasonable excuse or through negligence, then the person shall be liable on conviction to one or both of the following: 20

(a) a fine that is the sum total of —

(i) an amount equal to double the tax undercharged as a result of the inaccurate verified emissions report or incorrect information; and

(ii) an amount not exceeding \$5,000; 25

(b) imprisonment for a term not exceeding 3 years.

(4) Despite subsection (2), if the inaccurate verified emissions report was submitted or the incorrect information given wilfully with intent to evade the tax or any part of the tax, then the person shall be liable on conviction to one or both of the following: 30

(a) a fine that is the sum total of —

(i) an amount equal to triple the tax undercharged as a result of the inaccurate verified emissions report or incorrect information; and

5 (ii) an amount not exceeding \$10,000;

(b) imprisonment for a term not exceeding 3 years.

(5) Despite subsection (2), if —

(a) the inaccurate verified emissions report or incorrect information was prepared by or through the perpetration of any fraud, art or contrivance; and

10

(b) the inaccurate verified emissions report was submitted or the incorrect information given wilfully with intent to evade the tax or any part of the tax,

then the person shall be liable on conviction to one or both of the following:

15

(i) a fine that is the sum total of —

(A) an amount equal to quadruple the tax undercharged as a result of the inaccurate verified emissions report or incorrect information; and

20

(B) an amount not exceeding \$50,000;

(ii) imprisonment for a term not exceeding 5 years.

(6) Subsection (2) does not apply, including in relation to subsection (3), to any inaccuracy notified to the Agency under section 15(1).

25

(7) In any proceedings for an offence under this section, it is not a defence for a defendant to prove that the verified emissions report was approved by the Agency.

### **Offences relating to monitoring plans**

30 **57.—**(1) A person that fails to submit a monitoring plan in accordance with section 13 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

(2) Without affecting subsection (1), a person that submits a monitoring plan that is inaccurate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

(3) Subsection (2) does not apply to any inaccuracy notified to the Agency under section 15(1). 5

(4) In any proceedings for an offence under subsection (2), it is not a defence for a defendant to prove that the monitoring plan was approved by the Agency.

### **Other offences relating to emissions reports and monitoring plans** 10

**58.** A person that fails to comply with any direction of the Agency under section 13(2), 14 or 15(2) served on the person, or fails to comply with section 15(1), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

### **Offence relating to failure to pay tax** 15

**59.** A person that fails, in accordance with a demand note served on the person under section 17(4)(b), to pay the tax specified in the demand note, shall be guilty of an offence and shall be liable on conviction to a fine that is triple the amount of tax specified in the demand note as being outstanding. 20

### **Offences by authorised and unauthorised persons**

**60.** Any person (*P*) that —

(a) being appointed for the due administration of this Act —

- (i) demands from any person an amount in excess of the authorised assessment of tax, or any carbon credits in excess of the authorised assessment of the number of carbon credits required to pay the tax; 25
- (ii) withholds for *P*'s own use or otherwise, any amount collected in payment of any carbon credit or as tax, or any part of such amount; 30
- (iii) gives a false return, whether verbal or in writing, of any number of carbon credits credited by,

surrendered to or cancelled by *P*, or any amount collected by *P* as payment for any carbon credit, or any amount of tax collected or received by *P*; or

(iv) defrauds any person, embezzles any money or otherwise uses *P*'s appointment to deal wrongly with the Agency or any other person; or

(b) not being authorised under this Act to do so, sells or credits, or purports to sell or credit any carbon credits, or collects or attempts to collect tax under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

### **Offences relating to appeals**

**61.**—(1) Any person that fails, without reasonable excuse, to comply with a requirement of the Minister under section 34(4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(2) Any person that is duly summoned to attend before an Appeal Panel under section 39(2) and, without reasonable excuse, does not so attend shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

### **Offences relating to records and registers**

**62.**—(1) A person that fails to comply with section 40 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a second or subsequent offence, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) A person that fails to comply with section 44(1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

## PART 9

## MISCELLANEOUS

**Notices and other documents may be given by authorised officer**

**63.**—(1) All notices and other documents of any nature that the Agency is empowered to give under this Act may, subject to the direction of the Agency, be given by any authorised officer on behalf of the Agency. 5

(2) Where any such notice or document mentioned in subsection (1) requires authentication, the signature or an official facsimile of the signature of any authorised officer affixed to the notice or document is sufficient authentication. 10

**Inaccuracies in document**

**64.**—(1) No misnomer or inaccurate description of any person, place or thing named or described in any document prepared, issued or served under, by virtue of or for the purposes of this Act affects the operation of this Act in any way as respects that person, place or thing if that person, place or thing is so designated in the document as to be identifiable. 15

(2) No proceedings taken under or by virtue of this Act are invalid for want of form. 20

**Evidence**

**65.**—(1) The contents of any record, register or document prepared, issued or served by the Agency or any authorised officer under or for the purposes of this Act are presumed to be correct until the contrary is proved. 25

(2) The Minister may prescribe for any record, register or document kept by the Agency or any authorised officer for the purposes of this Act to be public documents, in whole or in part.

(3) Copies of or extracts from any record, register or document mentioned in subsection (1) that are — 30

(a) certified by an officer or employee of the Agency to be true copies or extracts, as the case may be; and

(b) signed by such officer or employee with the name and official title of the officer or employee,

5 are admissible in evidence as proof of the contents of or extracts from the record, register or document.

(4) In any suit under this section, a certificate signed by an authorised officer stating the name of the registered person and the amount of any tax, financial penalty or amount due from the registered  
10 person is sufficient evidence of the amount so due until the contrary is proved.

### **Disclosure of information**

66. The Agency may provide any information or document obtained under this Act by the Agency or any authorised officer, to any of the  
15 public officers or statutory bodies set out in the Fourth Schedule for the purpose of enabling the performance or discharge by the public officer or statutory body of the functions or duties of the public officer or statutory body generally or as specified in that Schedule.

### **Service of documents**

20 67.—(1) A document that is permitted or required under this Act to be served on a person may be served as described in this section.

(2) A document permitted or required under this Act to be served on an individual may be served —

(a) by giving it to the individual personally;

25 (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;

30 (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;

- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; 5
- (f) by sending it by email to the individual's email address; or
- (g) by transmitting an electronic record of it to an account that the individual has with any electronic transactions service.

(3) A document permitted or required under this Act to be served on a partnership (other than a limited liability partnership) may be served — 10

- (a) by giving it to any partner or other like officer of the partnership;
- (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address; 15
- (c) by sending it by fax to the fax number used at the partnership's business address;
- (d) by sending it by email to the partnership's email address; or
- (e) by transmitting an electronic record of it to an account that the partnership has with any electronic transactions service. 20

(4) A document permitted or required under this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

- (a) by giving it to the secretary or other like officer of the body corporate or unincorporated association or the limited liability partnership's manager; 25
- (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;
- (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; 30

(*d*) by sending it by email to the body corporate's or unincorporated association's email address; or

(*e*) by transmitting an electronic record of it to an account that the body corporate or unincorporated association has with any electronic transactions service.

(5) Service of a document under this section takes effect —

(*a*) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

(*b*) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is sent;

(*c*) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered); and

(*d*) if the document is sent through any electronic transactions service, at the time when the electronic record of the document enters the person's account with the electronic transactions service.

(6) A document may be served on a person under this Act by email only with that person's prior written consent.

(7) This section does not apply to documents to be served in proceedings in court.

(8) In this section —

“business address” means —

(*a*) in the case of an individual, the individual's usual or last known place of business in Singapore; or

(*b*) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“document” includes a direction, order or notice permitted or required under this Act to be served;

“email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act;

“residential address” means an individual’s usual or last known place of residence in Singapore. 5

### **Offences by corporations**

**68.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that — 10

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of the actual or apparent authority of the officer, employee or agent; and

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind. 15

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation; or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and 20

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence; 25

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to 30

take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

5 (3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

- 10 (a) Chapters V and VA of the Penal Code (Cap. 224); or  
 (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or  
 15 not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

20 “officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

- (a) any person purporting to act in any such capacity; and  
 25 (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and  
 30 (b) the person’s reasons for the intention, opinion, belief or purpose.

## Offences by unincorporated associations or partnerships

69.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

- (a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of the actual or apparent authority of the employee or agent; and
- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

(a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;
- (ii) a partner in the partnership; or
- (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all

reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

- (a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and
- (b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and

- (b) the person's reasons for the intention, opinion, belief or purpose.

### **Power of court to order cause of contravention to be remedied**

**70.**—(1) Where any person is convicted of an offence under this Act, the court may, in addition to or instead of imposing any fine or imprisonment or both, order the person to take, within the time specified in the order (or within such further time as the court may allow), such steps as may be so specified to remedy the contravention or any matter resulting from the contravention. 5

(2) Subject to subsection (3), where an order is made under subsection (1), the convicted person is not liable under this Act in respect of the continuation of the contravention during the time specified in the order or allowed by the court to remedy the matters in respect of which the contravention occurred. 10

(3) If the order under subsection (1) is not complied with by the person to whom the order is given, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 for every day or part of a day during which the non-compliance continues after the date of conviction for the offence mentioned in that subsection. 15 20

### **Composition of offences**

**71.**—(1) An officer of the Agency authorised by the Agency to compound offences may compound any offence under this Act that is prescribed as a compoundable offence, by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following: 25

(a) one half of the amount of the maximum fine that is prescribed for the offence;

(b) \$5,000.

(2) On payment of such sum of money, no further proceedings may be taken against that person in respect of the offence under this Act. 30

## Payment of moneys into Consolidated Fund

72. All sums collected under this Act in connection with the payment of tax, as financial penalty, or in composition of any offence, must be paid into the Consolidated Fund.

## 5 Amendment of Schedules

73.—(1) The Minister may, from time to time, by order in the *Gazette*, amend, add to or vary the First, Second or Fourth Schedule.

10 (2) The Minister may, in any order made under subsection (1), make such saving or transitional provision as may be necessary or expedient.

(3) Every order made under subsection (1) must be presented to Parliament as soon as possible after publication in the *Gazette*.

## Exemptions

15 74. The Minister may, by order in the *Gazette* and with or without conditions, exempt —

(a) any or any class or description of business facility from all or any of the provisions of this Act; or

(b) any or any class or description of persons from compliance with all or any of the provisions of this Act.

## 20 Extensions of time

75.—(1) A person that, in any particular case, is unable to do any thing that the person is required to do under this Act within the time specified for it may apply in writing to the Agency for an extension of time.

25 (2) The Agency may grant an extension of time (whether for the same or less than the period of extension applied for), upon being satisfied that there are good reasons to do so.

## Regulations

30 76.—(1) The Minister may make such regulations as are necessary or expedient for carrying out the purposes and provisions of this Act.

(2) Without limiting subsection (1), the Minister may make regulations for or with respect to all or any matter in the Fifth Schedule.

(3) Regulations may make different provisions for —

(a) different persons or business facilities; 5

(b) different classes of persons or business facilities; or

(c) different circumstances.

(4) The Minister may, in making any regulations, provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$50,000 or with imprisonment 10  
for a term not exceeding 2 years or with both.

### **Incorporation by reference**

77.—(1) Regulations may incorporate by reference —

(a) wholly or partially;

(b) with or without any addition, omission or substitution; or 15

(c) specifically or by reference,

any code of practice, standard, requirement, specification or other document (called in this section the material) that relates to any subject matter of any regulations.

(2) The incorporation by reference may be of the material — 20

(a) as in force or published at a particular time, or from time to time; and

(b) whether issued by the Agency, or by any standards-setting or other organisation, or any other person.

(3) Unless otherwise provided in the regulations, where any material 25  
is incorporated by reference in the regulations under subsection (1) —

(a) the material is treated for all purposes as forming part of the regulations; and

(b) for any incorporation by reference of the material as in force or published from time to time, every amendment to 30  
the material that is made by the Agency, organisation or

person issuing the material is treated as forming part of the regulations from the time the amendment takes effect.

(4) If any provision in any material is inconsistent with any provision of this Act, such provision in the material, to the extent  
5 of the inconsistency —

(a) is to have effect subject to this Act; or

(b) having regard to this Act, is not to have effect.

(5) Where any material is incorporated by reference in any regulations, the Agency must give notice in the *Gazette* stating —

10 (a) that the material is incorporated in the regulations, and the date on which the relevant provision in the regulations takes effect;

(b) that the material is available for inspection, free of charge, and the place at which such material may be inspected;

15 (c) that copies of the material can be purchased, and the place where the copies can be purchased; and

(d) if copies of the material are available in other ways, the details of where or how the copies can be accessed or obtained.

20 (6) Where any material is incorporated by reference as in force or published from time to time in any regulations is amended or revoked, the Agency must give notice in the *Gazette* stating —

(a) that the material is amended or revoked, and the date on which the amendment or revocation takes effect; and

25 (b) for an amendment —

(i) that the amendment to the material, or the material as amended, is available for inspection, free of charge, and the place at which such amendment or amended material may be inspected;

30 (ii) that copies of the amendment to the material, or the material as amended, can be purchased, and the place where the copies of the amendment or the amended material can be purchased; and

- (iii) if copies of the amendment to the material, or the material as amended, are available in other ways, the details of where or how the copies of the amendment or the amended material can be accessed or obtained.

(7) In addition, for the purposes of subsections (5)(b) and (6)(b)(i), the Agency must cause a copy of every material, amendment or amended material referred to, to be made available for inspection by members of the public without charge at any of its offices during normal office hours. 5

(8) To avoid doubt, any part of the material that is not incorporated by reference under subsection (1) does not have any legislative effect. 10

### **Advisory guidelines**

**78.**—(1) The Agency may issue advisory guidelines for the purposes of providing practical guidance or certainty in respect of any one or more requirements imposed under this Act. 15

(2) The advisory guidelines may —

(a) be of general or specific application; or

(b) specify that different provisions of the advisory guidelines apply to different circumstances, or are applicable to different persons or classes of persons. 20

(3) The Agency may amend or revoke the whole or part of any advisory guidelines issued under subsection (1).

(4) Advisory guidelines issued or amended under this section do not have any legislative effect.

(5) Where a person fails to comply with any provision of an advisory guideline issued under this section applicable to the person, this does not of itself render the person liable to criminal proceedings; but the failure may, whether in civil or criminal proceedings, be relied upon by any party to the proceedings as tending to establish or to negate any liability that is in question in the proceedings. 25 30

## **Consequential and related amendments to Energy Conservation Act**

79. The Energy Conservation Act (Cap. 92C) is amended —

5 (a) by deleting the words “at reasonable hours” in sections 26(1)(b) and 46(1)(b) and substituting the words “during normal business hours”;

(b) by repealing section 26C;

(c) by inserting the word “and” at the end of section 27(1)(a);

10 (d) by deleting the word “; and” at the end of section 27(1)(b) and substituting a comma;

(e) by deleting paragraph (c) of section 27(1);

(f) by deleting subsections (2) and (3) of section 27;

(g) by deleting the words “, (2) or (3)” in section 27(4);

15 (h) by deleting the section heading of section 27 and substituting the following section heading:

**“Periodic reporting of energy use and production by registered corporations”;**

(i) by deleting “26C,” in section 31B(4);

(j) by deleting “26C(6),” in section 32(1);

20 (k) by deleting the words “(including a report under section 26C(5)(b))” in section 78(2)(b), (c), (d), (f) and (g);

(l) by deleting the word “emissions,” in section 78(2)(e) and (2A)(b); and

25 (m) by deleting the words “(including an independent third party under section 26C(5)(a))” in section 78(2)(i).

## **Saving and transitional provisions**

80.—(1) Where —

(a) a corporation is a registered corporation on 31 December 2018 under the Energy Conservation Act (Cap. 92C); and

- (b) the corporation submitted a monitoring plan under section 26C of that Act in 2018 for any business activity or premises, or part of a business activity or premises,

then, as from and including 1 January 2019 —

- (i) the corporation is treated as a registered person for the purposes of this Act; 5
- (ii) the business activity or premises or part is treated as both a reportable facility and a taxable facility of the corporation as a registered person for the purposes of this Act; and
- (iii) the monitoring plan submitted under that Act is treated as if it were a monitoring plan submitted under this Act, and if approved under that Act as if it had been approved under this Act. 10

(2) Where —

- (a) the reckonable GHG emissions from any business activity or premises, or part of a business activity or premises, under the operation control of a corporation attained 2,000 tCO<sub>2</sub>e (or higher) in 2017; and 15
- (b) as at 31 December 2018 —
- (i) the corporation continues to have operational control over the business activity, premises or part; and 20
- (ii) the corporation is a registered corporation under the Energy Conservation Act,

then, as from and including 1 January 2019 —

- (A) the corporation is treated as a registered person for the purposes of this Act; and 25
- (B) the business activity or premises or part is treated as a reportable facility of the corporation as a registered person for the purposes of this Act.

(3) For the purposes of this Act, the first reporting period under section 11 for a corporation mentioned in subsection (1) or (2) is the year 2019, and the corporation is not required to submit any report under section 27 of the Energy Conservation Act in relation to 30

paragraph (c) of that section for any period prescribed under that section, or any part of such period, from 1 January 2019 onwards.

(4) Despite section 79(e), a registered corporation under the Energy Conservation Act must comply with section 27(1) of that Act in relation to GHG emissions for a prescribed period that is or is any part of 2018, as if section 79(e) were not in force.

## FIRST SCHEDULE

Sections 2(1) and 73

### GREENHOUSE GASES AND GLOBAL WARMING POTENTIAL

	<i>First column</i>	<i>Second column</i>	<i>Third column</i>
	<i>Greenhouse gas</i>	<i>Chemical formula of greenhouse gas</i>	<i>Global warming potential</i>
10	1. Carbon dioxide	CO <sub>2</sub>	1
	2. Methane	CH <sub>4</sub>	21
15	3. Nitrous oxide	N <sub>2</sub> O	310
	4. Sulphur hexafluoride	SF <sub>6</sub>	23900
	5. Nitrogen trifluoride	NF <sub>3</sub>	17200
	6. The following hydrofluorocarbons (HFCs):		
20	(a) HFC-23	CHF <sub>3</sub>	11700
	(b) HFC-32	CH <sub>2</sub> F <sub>2</sub>	650
	(c) HFC-41	CH <sub>3</sub> F	150
	(d) HFC-125	CHF <sub>2</sub> CF <sub>3</sub>	2800
	(e) HFC-134	CHF <sub>2</sub> CHF <sub>2</sub>	1000
25	(f) HFC-134a	CH <sub>2</sub> FCF <sub>3</sub>	1300
	(g) HFC-143	CH <sub>2</sub> FCHF <sub>2</sub>	300
	(h) HFC-143a	CH <sub>3</sub> CF <sub>3</sub>	3800
	(i) HFC-152	CH <sub>2</sub> FCH <sub>2</sub> F	53
	(j) HFC-152a	CH <sub>3</sub> CHF <sub>2</sub>	140
30	(k) HFC-161	CH <sub>3</sub> CH <sub>2</sub> F	12

FIRST SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>	<i>Third column</i>	
<i>Greenhouse gas</i>	<i>Chemical formula of greenhouse gas</i>	<i>Global warming potential</i>	
(l) HFC-227ea	CF <sub>3</sub> CHF <sub>2</sub> CF <sub>3</sub>	2900	5
(m) HFC-236cb	CH <sub>2</sub> FCF <sub>2</sub> CF <sub>3</sub>	1340	
(n) HFC-236ea	CHF <sub>2</sub> CHF <sub>2</sub> CF <sub>3</sub>	1370	
(o) HFC-236fa	CF <sub>3</sub> CH <sub>2</sub> CF <sub>3</sub>	6300	
(p) HFC-245ca	CH <sub>2</sub> FCF <sub>2</sub> CHF <sub>2</sub>	560	
(q) HFC-245fa	CHF <sub>2</sub> CH <sub>2</sub> CF <sub>3</sub>	1030	10
(r) HFC-365mfc	CH <sub>3</sub> CF <sub>2</sub> CH <sub>2</sub> CF <sub>3</sub>	794	
(s) HFC-43-10mee	CF <sub>3</sub> CHFCH <sub>2</sub> CF <sub>2</sub> CF <sub>3</sub>	1300	
7. The following perfluorocarbons (PFCs):			
(a) PFC-14	CF <sub>4</sub>	6500	15
(b) PFC-116	C <sub>2</sub> F <sub>6</sub>	9200	
(c) PFC-218	C <sub>3</sub> F <sub>8</sub>	7000	
(d) PFC-318	c-C <sub>4</sub> F <sub>8</sub>	8700	
(e) PFC-3-1-10	C <sub>4</sub> F <sub>10</sub>	7000	
(f) PFC-4-1-12	C <sub>5</sub> F <sub>12</sub>	7500	20
(g) PFC-5-1-14	C <sub>6</sub> F <sub>14</sub>	7400	

## SECOND SCHEDULE

Sections 2(1) and 73

MATTERS RELATING TO EMISSIONS THRESHOLDS  
AND REPORTING OF GHG EMISSIONS

25

## PART 1

## EMISSIONS THRESHOLDS

1. The first emissions threshold is 2,000 tCO<sub>2</sub>e.
2. The second emissions threshold is 25,000 tCO<sub>2</sub>e.

SECOND SCHEDULE — *continued*

## PART 2

## NON-RECKONABLE GHG EMISSIONS

	<i>First column</i>	<i>Second column</i>
5	<i>Greenhouse gas</i>	<i>Circumstances of emission</i>
	1. Nitrogen trifluoride	Emitted in any circumstances.
	2. Sulphur hexafluoride	Emitted in the course of manufacturing, installing, using or disposing of any electrical equipment.
10	3. Carbon dioxide	(a) Used and emitted in the course of purging.
		(b) Used and emitted in the course of blasting.
		(c) Emitted in the course of using any lubricant or paraffin wax.
15		(d) Emitted in the combustion of any of the following:
		(i) biodiesels;
		(ii) biogasoline;
20		(iii) charcoal;
		(iv) landfill gas;
		(v) sludge gas;
		(vi) sulphite lyes (Black Liquor);
		(vii) wood or wood waste;
25		(viii) other biogas;
		(ix) other liquid biofuel;
		(x) other primary solid biomass.
	4. Any hydrofluorocarbon	Emitted in the course of using any refrigeration and air-conditioning equipment for non-manufacturing purposes.
30	5. Any perfluorocarbon	Emitted in the course of using any refrigeration and air-conditioning equipment for non-manufacturing purposes.

SECOND SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>	
<i>Greenhouse gas</i>	<i>Circumstances of emission</i>	
6. Any greenhouse gas	(a) Emitted in the course of using any fire protection equipment.	5
	(b) Emitted as a fugitive emission (excluding flaring and venting).	
	(c) Emitted in the course of using any vehicle to transport any person or goods.	10
	(d) Emitted in the course of using any fuel that is described as any of the following under the Harmonized Commodity Description and Coding System:	
	(i) HS Code 2710.12.11;	15
	(ii) HS Code 2710.12.12;	
	(iii) HS Code 2710.12.13;	
	(iv) HS Code 2710.12.14;	
	(v) HS Code 2710.12.15;	
	(vi) HS Code 2710.12.16;	20
	(vii) HS Code 2710.19.71;	
	(viii) HS Code 2710.19.72;	
	(ix) HS Code 2711.21.10.	
	(e) Emitted in the course of carrying out Agriculture, Forestry and Other Land Use (AFOLU) activities.	25

SECOND SCHEDULE — *continued*

## PART 3

## EXCLUDED GHG EMISSIONS

	<i>First column</i>	<i>Second column</i>
5	<i>Greenhouse gas</i>	<i>Circumstances of emission</i>
	1. Any greenhouse gas	(a) Emitted in the course of using any vehicle to transport any person or goods.
10		(b) Emitted in the course of carrying out Agriculture, Forestry and Other Land Use (AFOLU) activities.

## THIRD SCHEDULE

Sections 16 and 26

## 15 MATTERS RELATING TO CARBON TAX

## PART 1

## CARBON TAX RATE

1. The carbon tax rate is \$5/tCO<sub>2</sub>e.

## PART 2

## 20 CARBON PRICE

1. Each carbon credit has a value of \$5.

## FOURTH SCHEDULE

Sections 66 and 73

25 PERSONS TO WHOM INFORMATION  
MAY BE DISCLOSED

1. The Minister charged with responsibility for environmental protection, and any public officer assisting the Minister in the performance of any official duties of that Minister.
2. The Minister charged with responsibility for economic planning and development, and any public officer assisting the Minister in the performance of any official duties of that Minister.

30

FOURTH SCHEDULE — *continued*

3. Any member, officer or employee of the Agency for the purpose of carrying into effect the provisions of this Act.

4. Any member, officer or employee of the Energy Market Authority of Singapore established by the Energy Market Authority of Singapore Act (Cap. 92B). 5

5. Any member, officer or employee of the Economic Development Board established by the Economic Development Board Act (Cap. 85).

## FIFTH SCHEDULE

Section 76(2) 10

MATTERS FOR OR IN RESPECT OF WHICH  
REGULATIONS MAY BE MADE

1. In relation to Part 1 —

- (a) the circumstances in which or the criteria by which any activity or series of activities (including ancillary activities) will form part of a single undertaking or enterprise; 15
- (b) the activities which are attributable to or are treated as being attributable to any particular industry sector;
- (c) the circumstances in which there is a dependency between activities carried out on different parcels of land; and 20
- (d) the circumstances in which one person is related to another person.

2. In relation to Part 4 —

- (a) the form of any application, report, plan or other document mentioned in this Act;
- (b) the preparation of any application, report, plan or other document mentioned in this Act, including the person that must prepare the same and any criteria and qualifications that the person must satisfy; 25
- (c) the information and documents to be included in or to accompany any application, report, plan or other document mentioned in this Act;
- (d) without affecting sub-paragraph (c), in relation to any emissions report or monitoring plan, the methods, or criteria for the methods, by which the amounts of emissions, reductions, removals, offsets, energy production, energy consumption or any other matters are to be measured or determined, including any one or more of the following: 30
  - (i) conditions relating to the use of different methods or criteria; 35

FIFTH SCHEDULE — *continued*

- (ii) rating systems for those methods;
  - (iii) the particular rating given to each of those methods;
  - (e) the period within which any application, report, plan or other document mentioned in this Act is to be submitted (including at prescribed intervals);
  - (f) the manner in which any application, report, plan or other document mentioned in this Act is to be submitted, including the person that must submit the same and any criteria and qualifications that the person must satisfy;
  - (g) the accreditation by the Agency of an external auditor carrying out any verification of any emissions report under section 12;
  - (h) the criteria and qualifications that an external auditor carrying out any assessment of a monitoring plan under section 13, must satisfy;
  - (i) the manner in which any verification or assessment required under this Act must be carried out, and the duties and obligations of an accredited external auditor or external auditor in carrying out the verification or assessment;
  - (j) the duties and obligations of any registered person in relation to any verification or assessment of an accredited external auditor or external auditor (whether before, during or after the verification or assessment); and
  - (k) the appointment of any person (called in this sub-paragraph the manager) to assist a person in complying with the obligations of the person under this Act, including —
    - (i) the appointment, training, criteria and qualifications of the manager;
    - (ii) the functions and duties of the manager; and
    - (iii) the powers of the manager, being necessary powers for the discharge of the manager's functions and duties.
3. In relation to Part 5 —
- (a) the form and manner in which any of the following applications may be made:
    - (i) for carbon credits;
    - (ii) to transfer carbon credits from one registry account to another;
    - (iii) to surrender carbon credits;

FIFTH SCHEDULE — *continued*

- (iv) for a refund under section 19;
  - (v) to close a registry account;
  - (b) the form and manner in which payment for carbon credits must be made; and 5
  - (c) the time within which any application in sub-paragraph (a), or the payment in sub-paragraph (b), must be made.
4. In relation to Part 6 —
- (a) the form of, and the manner of lodging, notices of appeals, and the procedure to be adopted by and proceedings of an Appeal Panel (including in the absence of members of the Appeal Panel); and 10
  - (b) the conduct of hearings of appeals (including the place and time at which appeals may be heard).
5. In relation to an electronic transactions service —
- (a) the provision of the electronic transactions service for any one or more of the following purposes: 15
    - (i) for any person to submit or serve any application, information or document on the Agency;
    - (ii) for the Agency to serve any notice or other document on any person under this Act; 20
    - (iii) for the Agency to publish or supply any application, information or document to any person;
    - (iv) for any other prescribed purpose;
  - (b) the manner in which and the persons by whom the electronic transactions service may be used; 25
  - (c) that any prescribed application, document or information must be submitted to or served on the Agency only through the electronic transactions service;
  - (d) that any prescribed application, information or document, submitted to a prescribed public authority in the prescribed manner, is treated as having been submitted through the electronic transactions service to the Agency; 30
  - (e) the circumstances and the manner in which any error or omission in any application, information or document submitted, served, published or supplied through the electronic transactions service may be corrected; 35

FIFTH SCHEDULE — *continued*

(f) despite the Evidence Act (Cap. 97), the admissibility of electronic records, and copies and print-outs of such records, of any application, information or document submitted, served, published or supplied through the electronic transactions service, as evidence of the facts contained in the record, copy or print-out; and

(g) any other matter necessary or incidental to the use, maintenance or management of the electronic transactions service.

6. Any fees and charges payable for an application under, or for any purpose of, this Act.

7. Any other matter that is necessary, required or permitted to be prescribed to give effect to this Act.

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EXPLANATORY STATEMENT

This Bill seeks to establish a framework for —

- (a) the registration of —
  - (i) business facilities if certain greenhouse gas (GHG) emissions of the business facilities attain or exceed certain thresholds; and
  - (ii) the persons having operational control over these business facilities;
- (b) the reporting of GHG emissions of these business facilities;
- (c) the imposition of a carbon tax (tax) on these business facilities if certain of their GHG emissions attain or exceed a certain threshold; and
- (d) the payment of the tax through the surrender of carbon credits.

The Bill also makes consequential and related amendments to the Energy Conservation Act (Cap. 92C).

## PART 1

## PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3 defines the term “business facility” as a single site at which any business activity is carried out. “Business activity” is in turn defined as any activity

or series of activities (series) involving the emission of greenhouse gas and forming a single undertaking or enterprise. The single site can be one or more parcels of land (whether or not the parcels are contiguous, adjacent or adjoining), if the same person has operational control over the business activity carried out on the parcels of land. Where the parcels of land are not contiguous, adjacent or adjoining, there is an additional requirement that there be a dependency between the activities carried out on the different parcels of land. A series of activities can also form a single enterprise or undertaking even if one or more activities in the series can be carried out as a separate and distinct business activity, or is or are from more than one prescribed industry sector.

Clause 4 defines the term “operational control”. It is used in relation to a business facility and identifies the person that has authority (or the greatest authority if there is more than one such person) to introduce and implement certain policies for the business facility.

## PART 2

### APPLICATION AND ADMINISTRATION

Clause 5 provides for the application of the Bill only to prescribed industry sectors, and to the Government.

Clause 6 provides that the National Environment Agency (the Agency) is responsible for the administration and enforcement of the Bill.

## PART 3

### REGISTRATION OF PERSONS AND BUSINESS FACILITIES

Clause 7 provides for the registration of a person as a registered person and for the registration of a business facility as a reportable facility of the person (as a registered person) if, whilst the business facility was under the operational control of the person at any time in any year that is 2018 or later, the total amount of reckonable GHG emissions of the business facility attained or exceeded the first emissions threshold. Additionally, if the total amount of reckonable GHG emissions of the business facility attained or exceeded the second emissions threshold, then the business facility must also be registered as a taxable facility of the registered person. Reckonable GHG emissions are the GHG emissions of a business facility specified in the First Schedule, other than the non-reckonable GHG emissions specified in Part 2 of the Second Schedule. In Part 1 of the Second Schedule, the first emissions threshold is specified as 2,000 tCO<sub>2</sub>e and the second emissions threshold is specified as 25,000 tCO<sub>2</sub>e.

Clause 8 provides for matters relating to applications for registrations mentioned in clause 7.

Clause 9 provides for the deregistration of business facilities as taxable facilities or reportable facilities of registered persons, and of persons as registered persons.

Clause 10 provides for matters relating to applications for deregistrations mentioned in clause 9.

## PART 4

### GHG EMISSIONS REPORTING REQUIREMENTS

Clause 11 requires a registered person to submit an emissions report to the Agency (for the Agency's approval) relating to each reportable facility of the registered person, for every reporting period set out in the clause. The emissions report covers all GHG emissions of a reportable facility (and not only the reckonable GHG emissions), except for excluded GHG emissions specified in Part 3 of the Second Schedule.

Clause 12 provides for additional requirements for emissions reports under clause 11 where a business facility is registered both as a reportable facility and a taxable facility of the registered person, namely, for the emissions reports to be —

- (a) prepared based on a monitoring plan (see clause 13); and
- (b) verified by an accredited external auditor in respect of the reckonable GHG emissions.

Clause 13 provides for the requirements of a monitoring plan, which must be assessed by an external auditor if the Agency so directs in certain circumstances, and must be approved by the Agency. The external auditor need not be an accredited external auditor, but must satisfy such criteria and qualifications as may be prescribed for such external auditor under clause 76. The clause also provides for the revision of a monitoring plan in prescribed circumstances.

Clause 14 empowers the Agency to require a registered person to —

- (a) rectify or recompute any incomplete or inaccurate emissions report or monitoring plan and resubmit it to the Agency for the Agency's approval; and
- (b) have an emissions report re-verified or a monitoring plan re-assessed, or a report of an accredited external auditor or external auditor rectified, if the verification or assessment (as the case may be), or report, does not comply with any requirement under the Bill.

Clause 15 requires a registered person to notify the Agency of any error or omission in an emissions report or monitoring plan within 7 working days after the registered person discovers the error or omission.

## PART 5

## CARBON PRICING

Clause 16 imposes a tax on the reckonable GHG emissions of a taxable facility of a registered person, based on the carbon dioxide equivalence of the total amount of the reckonable GHG emissions that is verified in the verified emissions report for the taxable facility for a reporting period (rounded up to the nearest metric tonne), multiplied by the carbon tax rate specified in Part 1 of the Third Schedule. The tax is charged only if the carbon dioxide equivalence of the total amount of the reckonable GHG emissions in the whole of that reporting period attains or exceeds the second emissions threshold. The tax is payable by the registered person.

Clause 17 requires the tax to be paid by a registered person against an assessment of the tax by the Agency, in general by surrendering carbon credits within certain periods. The clause further provides for the financial penalties for a failure to pay the tax within the required time.

Clause 18 empowers the Minister and the Agency to give relief or remission from any tax or financial penalty to which a registered person is liable.

Clause 19 provides for refunds where a registered person has, in certain circumstances, surrendered carbon credits whose total carbon price exceeds the amount of tax charged in relation to a taxable facility. Depending on the circumstances, the refund may be of the excess of the amount of the tax, or by way of crediting the registry account for the taxable facility of the registered person with the “excess” number of carbon credits surrendered. Conversely, the registered person must pay to the Agency the carbon price of any carbon credit erroneously credited into the registered person’s registry account, or any erroneous refunds.

Clause 20 provides for the recovery of any tax remaining unpaid, any financial penalty imposed and any amount payable to the Agency under clause 19, as a debt due to the Government.

Clause 21 requires the Agency to assess the tax charged and the number of carbon credits that a registered person must surrender in order to pay the tax, and to serve a notice of assessment on the registered person setting out these 2 matters. The clause further empowers the Agency to make the assessment based on the Agency’s best judgment if the registered person has not submitted a verified emissions report or has submitted a verified emissions report that is incomplete or inaccurate.

Clause 22 empowers the Agency to make advanced assessments for a reporting period in relation to a taxable facility of a registered person if, in the opinion of the Agency, the registered person has ceased or is likely to cease to have operational control over the taxable facility.

Clause 23 provides for the revision of assessments by the Agency in certain circumstances.

Clause 24 permits the Agency to waive the assessment of tax if the amount concerned does not exceed \$15 or such higher amount as may be prescribed.

Clause 25 prevents any assessment, charge or demand for tax from being quashed due to a mistake in the name of any registered person or the amount of tax assessed as charged, if the provisions of the Bill are complied with in substance and effect.

Clause 26 provides that the carbon price of a carbon credit is the value mentioned in Part 2 of the Third Schedule, and that a carbon credit cannot be sold, transferred, assigned or otherwise disposed of or dealt with except as permitted under the Bill.

Clause 27 requires the Agency to credit the number of carbon credits that a registered person has applied and paid for in relation to a taxable facility of the registered person, into the registry account for that taxable facility. The registered person may request the Agency to transfer carbon credits from a registry account for one of its taxable facilities to the registry account for any other of its taxable facilities.

Clause 28 provides for the surrender of carbon credits by a registered person in payment of tax in relation to a taxable facility of the registered person, and the removal of such carbon credits by the Agency from the registry account for that taxable facility.

Clause 29 empowers the Agency to cancel and remove any carbon credit in a registry account for a taxable facility of a registered person if the registered person —

- (a) has not paid the tax in accordance with clause 17; or
- (b) obtained the carbon credit by fraud or other unlawful means.

In the case of paragraph (a), but not in the case of paragraph (b), the registered person is treated as having paid the tax to the extent of the total carbon price of the carbon credits so cancelled and removed. In the case of paragraph (b), the registered person is not entitled to any refund on the carbon credits cancelled and removed.

Clause 30 provides that a registered person is not entitled to any refund on any carbon credit except to the extent permitted by clause 33.

Clause 31 requires the Agency to open a registry account in the Carbon Credits Registry for each taxable facility of a registered person, and assign a unique identifier to the registry account.

Clause 32 empowers the Agency to suspend a registry account in certain circumstances. The clause further provides that, upon suspension of the registry account, carbon credits may not be credited into the account, transferred or

surrendered, and any tax required to be paid during the period of suspension may only be paid in the form and manner required by the Agency.

Clause 33 empowers the Agency to close a registry account in certain circumstances. The clause further provides that, upon closing a registry account, the Agency must cancel and remove any carbon credits in the registry account. A refund of the total carbon price of the carbon credits so cancelled and removed, is permitted unless the account is closed because it was, was being or was intended to be used for the commission of any criminal offence.

## PART 6

### APPEALS

Clause 34 permits a registered person aggrieved by certain decisions of the Agency to appeal to the Minister. The Minister may refer an appeal to an Appeal Panel (established by the Minister) to consider and determine the appeal, if the Minister considers that the appeal involves issues of such nature and complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge.

Clause 35 provides that an appeal does not suspend the effect of a decision against which the appeal is brought, unless otherwise provided in the Bill or allowed by the Minister.

Clause 36 provides for the powers of the Minister and an Appeal Panel considering an appeal. The clause further provides that the decision of the Minister or an Appeal Panel is final, unless clause 37 applies.

Clause 37 permits an appellant or the Agency to appeal to the High Court from the decision of the Minister or an Appeal Panel upon any question of law or mixed law and fact, unless the decision of the Minister or Appeal Panel appealed against results in a change of less than \$500 in the amount of tax charged. The clause further provides for an appeal to the Court of Appeal from the decision of the High Court.

Clause 38 sets out the composition and procedures of an Appeal Panel which must comprise at least 3 individuals.

Clause 39 provides for the powers, rights and privileges of an Appeal Panel.

## PART 7

### RECORDS AND REGISTERS

Clause 40 obliges a registered person, an accredited external auditor, and an external auditor assessing any monitoring plan under the Bill, to keep and maintain records containing prescribed information and documents in accordance with prescribed requirements, for at least the prescribed period. Such persons must

submit such records to an authorised officer as required by the authorised officer during the prescribed period.

Clause 41 provides for the keeping and maintaining of registers by the Agency concerning registered persons, reportable facilities, taxable facilities and registry accounts.

Clause 42 provides for the correction of registers by the Agency on the Agency's initiative.

Clause 43 provides for the correction of registers by the Agency, upon an application by a registered person.

Clause 44 requires registered persons to notify the Agency of changes in their prescribed particulars that have been registered. Upon verifying the notice, the Agency must update the relevant register with the change.

## PART 8

### ADMINISTRATION AND ENFORCEMENT, ETC.

Clause 45 defines certain terms used in the Part.

Clauses 46 to 51 provide the Agency and authorised officers with various powers for the purpose of administering or enforcing the Bill or determining if the Bill has been complied with, including entering of premises, requesting for information and documents, and requiring any inspection or test to be conducted.

Clause 52 penalises any person that hinders or obstructs the Agency or any authorised officer in the performance of their duties or powers.

Clause 53 penalises any person that falsifies data, or provides information, etc., that is false or misleading in any material particular to the Agency or an authorised officer.

Clauses 54 to 62 penalise persons for failing to comply with requirements imposed under the Bill (including registrations, submission of emissions reports and monitoring plans, and payment of tax), and other matters relating to the administration and enforcement of the Bill.

## PART 9

### MISCELLANEOUS

Clause 63 empowers an authorised officer to give any notice or other document on the Agency's behalf.

Clause 64 provides for the continued operation of the Bill despite any misnomer or inaccuracy in a document as long as the person, place or thing named or

described in the document is identifiable. The clause further provides that proceedings under the Bill are not invalid for want of form.

Clause 65 provides that any record, register or document from the Agency or any authorised officer is presumed to be correct until the contrary is proved. Certified copies of the same are admissible in evidence as proof of their contents. The clause also empowers the Minister to prescribe any records, registers and other documents kept by the Agency or any authorised officer as public documents.

Clause 66 empowers the Agency or any authorised officer to provide any information or document to public officers or statutory bodies in the Fourth Schedule to enable these public officers or statutory bodies to perform or discharge their functions or duties.

Clause 67 provides for the modes of service of documents and determines the time when service is effected. The clause does not apply to documents to be served in court proceedings.

Clause 68 concerns offences committed by corporations (including a limited liability partnership). The clause makes clear how the state of mind of a corporation may be evidenced when the offence in question has a mental element. It also clarifies when the criminal liability of a corporation may be attributed to an officer or a member of a corporation, or to certain other individuals.

Clause 69 is similar to clause 68 but instead concerns offences committed by unincorporated associations and partnerships.

Clause 70 empowers the court to order a person convicted of an offence to take remedial action in respect of the contravention, in addition to or instead of imposing any penalty on the person.

Clause 71 provides for the composition of offences under the Bill by an officer of the Agency authorised by the Agency, that are prescribed as compoundable offences.

Clause 72 provides for sums collected under the Bill to be paid into the Consolidated Fund.

Clause 73 empowers the Minister to amend certain Schedules of the Bill by order in the *Gazette*.

Clause 74 empowers the Minister to exempt business facilities and persons from the Bill.

Clause 75 empowers the Agency to grant extensions of time for a person to do any thing which the person is required to do under the Bill.

Clause 76 empowers the Minister to make regulations for carrying out the purposes and provisions of the Bill.

Clause 77 provides for the incorporation by reference in regulations, of codes of practice, standards, requirements, specifications and other documents, as in force or published at a particular time or as in force or published from time to time.

Clause 78 empowers the Agency to issue advisory guidelines. Such guidelines have no legislative effect.

Clause 79 makes consequential and related amendments to the Energy Conservation Act, mainly to revoke provisions in that Act that relate to the reporting of GHG emissions.

Clause 80 provides for saving and transitional provisions. The provisions provide for —

- (a) registered corporations under the Energy Conservation Act that are treated as registered persons under the Bill;
- (b) business activities or premises, or part of business activities or premises, under the Energy Conservation Act that are treated as reportable facilities or taxable facilities under the Bill; and
- (c) monitoring plans submitted (and approved) under the Energy Conservation Act that are treated as monitoring plans submitted (and approved) under the Bill.

The provisions further provide for the first reporting period under the Bill of a registered person under paragraph (a) to be 2019, and that obligations under the Energy Conservation Act for the reporting of greenhouse gases emitted in 2018 or any part of 2018 continue to apply despite the repeal of the relevant provisions of that Act.

The First Schedule prescribes the greenhouse gases to which the Bill applies, and the global warming potential of each greenhouse gas (to be used to convert the greenhouse gas emitted into tCO<sub>2</sub>e).

The Second Schedule provides for the first emissions threshold and the second emissions threshold, as well as the GHG emissions that are not taken into account in determining if the GHG emissions of a business facility attain or exceed either of the thresholds.

The Third Schedule provides for the tax rate and the carbon price.

The Fourth Schedule provides for the persons to whom information and documents obtained under the Bill may be disclosed.

The Fifth Schedule provides for the matters for or in respect of which regulations may be made.

## EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

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