

Commonwealth Carbon Tax Model Law

Version 2



The Commonwealth

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Note

This version of the Commonwealth Carbon Tax Model Law has been structured so that all the legal texts appear at the beginning of the report and the Purpose Provisions and Commentaries follow. This has been done to make it easier for the legislation to be read and also to make it consistent with other Commonwealth model legislation.

Foreword



Climate change is the great challenge of our time. In every region of the Commonwealth, fertile lands turn to dust, wells run dry, storms and floods overwhelm communities, and the ocean rises.

Delivering the Paris Agreement remains humanity's greatest hope. Yet globally, as the impacts of climate change continue to intensify, the gaps on emissions, finance and justice are widening, while the window for action continues to narrow.

Every Commonwealth member country has ratified the Paris Agreement and, at last year's Heads of Government Meeting in Kigali, Rwanda, leaders renewed their commitment to its implementation. To achieve that essential goal, we must combine increases in ambition and effort with the practical delivery of new laws, programmes and policies.

There is widespread agreement that carbon pricing is a key part of the solution. It ensures that polluters bear the external costs of greenhouse gas emissions, while providing the triple benefit of emission reduction, investment in the low-carbon economic transition, and increasing government revenues.

These benefits have led Commonwealth member countries – including Canada, Cyprus, Malta, New Zealand, the United Kingdom and South Africa – to implement carbon pricing, while others such as Botswana, Gabon, Malaysia, Nigeria and Pakistan are considering such a policy.

A carbon tax is, administratively, the simplest way of implementing carbon pricing. Going forward, increased demand in many Commonwealth member countries to implement such a tax is likely.

To assist them, and working alongside them, the Commonwealth Secretariat has developed and drafted a model law, which covers three key principles for implementation:

- (1) That it covers the majority of greenhouse gas emissions, with emissions from the burning of fossil fuels, industrial processes and methane venting all taxed;
- (2) That the tax is principally levied upstream on producers, refiners and importers of fossil fuels, and large industrial emitters – because levying the tax on these relatively few, large and sophisticated taxpayers simplifies administration and audit; and
- (3) That the model law has strong provisions for measuring the impact of the carbon tax in a way which is sensitive to gender, young people and the needs of low-income households.

There is no one-size-fits-all approach to tackling climate change.

Different countries have different contexts, and there are a wide range of policy options which countries can choose from. It is only right that each country makes its own choice about which policies to implement.

This model law is intended not as an obligation, but as a tool for Commonwealth countries which are considering introducing a carbon tax.

Some may wish to use our model law as a starting point for their legislation. Some may wish to select certain provisions from it. Some may wish to draft legislation from scratch, while others may opt for an entirely different approach.

The Secretariat's role is to support and assist all our member countries in implementing their commitments under the Paris Agreement, and we stand ready to support each of them.

Whether or not they decide to introduce a carbon tax, I hope this model law will be a valuable resource for all of our 56 member countries, as they seek to avoid the worst effects of climate change and introduce policies for a more sustainable and prosperous common future.

Rt Hon. Baroness Scotland KC,
Secretary-General of the Commonwealth

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Introduction to the Act

The rationales for a carbon tax and this Act

The negative effects of climate change on nature and humankind are wide-ranging and multifaceted, and it is accepted that the most vulnerable communities, who have contributed the least to the causation of climate change, are likely to be disproportionately affected by these adverse effects.¹ It is insufficient for only certain countries to take action to mitigate the causes of climate change; rather it is urgent that a global effort is mobilised.

The Paris Agreement, which all 56 Commonwealth member countries have ratified, commits signatories to limit global warming to 1.5°C above pre-industrial levels. Signatories to the Paris Agreement are required to submit nationally determined contributions (NDC) every five years containing mitigation commitments for the reduction of greenhouse gas (GHG) emissions. To meet these commitments, it is necessary for Commonwealth member countries to put in place carefully considered legal frameworks and policies to reduce their emissions and limit the pace of climate change.

One such policy is carbon pricing, under which policy-makers may consider a range of measures such as carbon taxation and emissions trading schemes. Carbon pricing mechanisms capture the external cost of GHG emissions, including damage to the environment, the wide-ranging and often devastating effects of the slow and rapid onset of weather events, and the negative health impacts of climate change, and price them into the sources of climate change. Consistent with the “polluter-pays-principle”, this shifts the cost of climate change from all of humankind to those who are responsible for the emissions that cause climate change. According to calculations from the World Bank, in mid-2023, 73 carbon pricing initiatives had been implemented globally, covering 11.66 gigatonnes of carbon dioxide equivalent emissions, which constitutes 23 per cent of global GHG emissions.²

A carbon tax increases the price of emitting GHG and promotes switching to low-carbon sources of energy and energy efficiency. In addition to supporting domestic mitigation commitments and limiting climate change, there are other benefits from the implementation of a carbon tax, including increased revenue and improved human health due to lower emissions. Carbon taxes are also more straightforward to administer than emissions trading schemes.³ Revenues from a carbon tax can be used to finance numerous policies, including mitigating any impact of the carbon tax on low-income households, investing in the low-carbon energy transition, and mitigating the harmful effects of climate change.

The forthcoming introduction of the European Union’s (EU’s) Carbon Border Adjustment Mechanism (CBAM) provides a further rationale for non-EU countries to implement a carbon tax. The permanent phase of this mechanism will enter into force on 1 January 2026. Under this mechanism, exports of certain carbon-intensive goods from non-EU countries to the EU will be charged by the EU, but if the importer can prove that a carbon price has already been paid during the production of the

1 IPCC (2023), “Summary for Policymakers”, in Lee, H and J Romero (core writing team) (eds.) *Climate Change 2023: Synthesis Report. A Report of the Intergovernmental Panel on Climate Change*. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. IPCC, Geneva, Switzerland, 36, 5.

2 World Bank, *Carbon Pricing Dashboard*, available at: <https://carbonpricingdashboard.worldbank.org/>

3 International Monetary Fund (2019), *Putting a Price on Pollution*, available at: <https://www.imf.org/en/Publications/fandd/issues/2019/12/the-case-for-carbon-taxation-and-putting-a-price-on-pollution-parry>

goods in the non-EU country, then a corresponding amount can be deducted from the EU charge. This mechanism provides a strong rationale for non-EU countries that export to the EU to implement carbon pricing. Specifically, without carbon pricing, non-EU countries' carbon-intensive exports of certain goods to the EU are charged and the EU receives the revenue. In contrast, if a non-EU country implements carbon pricing, through say a carbon tax, its exports will be charged less under the EU CBAM and the non-EU country will collect the additional revenue. Moreover, the UK Government has started a consultation on the implementation of a UK CBAM.⁴

In short, carbon pricing potentially provides the quadruple benefit for a Commonwealth member country of lowering GHG emissions, stimulating investment in the low-carbon economic transition, increasing government revenue, and reducing, or eliminating, the CBAM charge on exports to the EU. The benefits of a carbon tax have been recognised by member countries such as Canada, Cyprus, Malta, New Zealand, the United Kingdom and South Africa, which have introduced such a tax, while other countries such as Botswana, Gabon, Malaysia, Nigeria and Pakistan are considering doing so. Going forward, as the world strives to achieve the Paris Agreement's goals, further Commonwealth member countries may wish to tax carbon. The Commonwealth Secretariat has, therefore, drafted this Act to assist those Commonwealth member countries that wish to implement a carbon tax.

The voluntary nature of this Act and the importance of stakeholder consultation

This Act was drafted to assist Commonwealth member countries and it does not constitute a recommendation to introduce a carbon tax. There are many public policies that can drive the reductions in GHG emissions that are required to achieve the Paris Agreement's goals, and it is for each individual Commonwealth member country to decide whether to implement a carbon tax. The Commonwealth Secretariat is happy to assist any Commonwealth member country that wishes to introduce a carbon tax, but we also recognise that there may be other members that decide not to introduce a carbon tax and instead achieve their NDC through other climate change mitigation policies.

In addition, for those Commonwealth member countries that do decide to implement a carbon tax, it is for them to determine whether, and if so how, to use this Act. Some Commonwealth member countries may wish to use much of this Act as a starting point for their legislation, others may wish to select certain sections from this Act, and others may wish to draft their legislation from scratch. In all cases, it is important that there is detailed discussion and debate on the provisions of the carbon tax legislation within government and with key stakeholders outside of government, and that based on these discussions, the design of the carbon tax is tailored to the country's own national circumstances.

Purpose of this Act and key design features of the carbon tax

This Act provides for an effective carbon tax that is consistent with key principles of international environmental law, including the polluter-pays-principle. The individual Parts and sections of this Act have been drafted to ensure clarity of the legal obligations and rules, to provide transparency in carbon pricing and taxation mechanisms, and to promote procedural fairness in carbon taxation.

⁴ Financial Times (2023), "UK and EU boost co-operation over new carbon border tax", available at: <https://www.ft.com/content/55131d43-d897-4dc9-ab23-5a788b057ddc> (pay wall).

Three key design features of the carbon tax provided for in this Act are that it is likely to cover most emissions in most jurisdictions,⁵ minimises the costs of tax administration by levying the tax upstream, and has strong provisions for measuring the impact of the carbon tax.

The carbon tax provided for by this Act will cover the majority of GHG emissions in most jurisdictions, with emissions from combusting fossil fuels, industrial processes and the venting of methane all taxed. Carbon dioxide emissions from fossil fuels are priced by taxing the operators of fuel facilities (coal mines, coal processors, petroleum fields, oil refiners, gas processors and fuel importers) on the carbon embedded in the fuels that they mine, refine, process or import, and by taxing any natural gas that they flare or vent. In addition, large industrial emitters are required to pay the carbon tax on the GHG they emit from industrial processes.

This Act also provides for the detailed reporting of fuel emissions and GHG emissions from industrial processes. These new reporting requirements, and liability for the carbon tax, fall on the operators of fuel facilities and large industrial emitters. These operators are likely to be large, sophisticated taxpayers that are well placed to cost effectively meet these reporting requirements. This Act does not place any new reporting requirements, or levy the carbon tax, on households or businesses (unless they are operators of fuel facilities or large industrial emitters). The vast majority of taxpayers will not be liable for the carbon tax and will not be required to report their GHG emissions.

The carbon tax provided for under this Act uses existing tax administration processes and systems to the greatest extent possible. This is partly achieved by requiring that the reports required under the carbon tax are submitted as annexes to existing tax returns. Governments are also advised to ensure that the administration of the carbon tax reflects existing tax administration processes. This may require that additional sections are added to this Act to ensure that relevant tax administration provisions in existing tax legislation are applied to the carbon tax.

This Act also has strong provisions for measuring the impact of the carbon tax. Specifically, it provides for the drafting of a carbon tax impact report every three years, which must include details of all the revenues generated by the carbon tax, an analysis of the impact of the carbon tax on economic growth, a review of the impact of the carbon tax on GHG emissions, and details of the use of the revenues generated by the carbon tax. There are also provisions in the Act for the creation of a stakeholders' discussion group comprising representatives from indigenous communities, youth groups, low-income households and other groups.

Structure of the Act

The Act is divided into 13 Parts. A summary of the Parts is as follows:

Part 1: Preliminary Provisions

Part 2: Relevant Emissions

Part 3: Carbon Tax, Emissions Threshold and Carbon Price

Part 4: Operators of Fuel Facilities

⁵ The percentage of GHG emissions covered by the carbon tax provided for under this Act will vary by jurisdiction. However, if the carbon tax was implemented globally, approximately 79 per cent of GHG emissions would be taxed. This figure is based on the author's calculations using data from World Resource Institute (2020), 'World Greenhouse Gas Emissions: 2016', available at: <https://www.wri.org/data/world-greenhouse-gas-emissions-2016>

Part 5: Taxing Large Industrial Emitters

Part 6: Reporting and Monitoring Fuel Emissions

Part 7: Reporting and Monitoring of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions

Part 8: Auditors and Record Keeping

Part 9: Rebates and Exemptions

Part 10: Payments to Carbon Capture, Usage and Storage Facilities

Part 11: Carbon Tax Monitoring, Stakeholder Engagement and Intra-Government Coordination

Part 12: Tax Administration

Part 13: Miscellaneous

Within each part, various relevant sections are found together with a description of the purpose of the provision, suggested text for the provision, and a detailed commentary on how it works and how it might be amended and implemented.

This Act includes both commentary and legal text. The commentary should be read carefully as it contains useful context for the implementation and drafting of this Act and includes suggestions for alternative approaches to those offered in the prepared text. It should also be noted that it is not the intention that the provided commentary is included when the carbon tax bill is laid before parliament. Rather, the commentary is provided to assist policy-makers understand the design of the carbon tax.

This Act also includes references to the "Minister of [X]". In many cases the "Minister of [X]" will be the Minister of Finance. However, the term "Minister of Finance" is not used in this Act as in some cases certain responsibilities for carbon taxation that may be ascribed to the Minister of Finance in some Commonwealth member countries may be ascribed to the Minister of Environment or another minister in another member country. In addition, in some Commonwealth member countries, the correct term may not be "Minister of Finance", but a similar term such as "Minister of Finance and Economic Development".

There is also an accompanying high-level design document for this model legislation, which may be read at this report's webpage⁶. We recommend reading the design document thoroughly before reading this Act, as this should aid understanding of this Act and the design of the carbon tax.

6 <https://thecommonwealth.org/publications/carbon-tax-model-law>

I Legislation

Part 1: Preliminary Provisions

Short Title

Section 1. This Act may be cited as the ([Commonwealth Country] Carbon Tax Act).

Commencement

Section 2. This Act comes into force [specify date; or on a day to be fixed by Proclamation].

Interpretation

Section 3. In this Act, unless a contrary intention appears:

“Business Activity” means any activity or series of activities that:

- a. involve the emission of Greenhouse Gas; and
- b. that form a single undertaking or enterprise, having regard to any relevant circumstances.

Where a Business Activity is a series of activities that is carried out at more than one location or parcel of land, the Business Activity shall be treated in this Act as carried out at a single site if the same person is the Operator.

“Carbon Capture and Storage” or “CCS” means the use of technology to safely:

- c. capture and separate a relatively pure stream of carbon dioxide from industrial and energy-related sources;
- d. condition and compress the captured carbon dioxide;
- e. transport the captured carbon dioxide to a storage location; and
- f. store the captured carbon dioxide for a climate-relevant time horizon

“Carbon Capture and Usage” or “CCU” means the use of technology to safely:

- a. capture and separate a relatively pure stream of carbon dioxide from industrial and energy-related sources; and
- b. condition and compress the captured carbon dioxide and use it to produce a new product where the carbon dioxide is stored in the product for a climate-relevant time horizon.

For the purposes of this legislation, a climate-relevant time horizon means a period of 100 (one hundred) years or more.

“Carbon Capture, Usage or Storage (CCUS) Development Payment” means a sum paid on an annual basis by the Minister of [X] to eligible Operators of CCS or CCU Facilities, calculated in accordance with section 72.

“Carbon Content” means the mass of the Fuel in metric tonnes multiplied by the CO₂ emissions factor for that Fuel in metric tonnes as set out in column two of Schedule 2.

“Carbon Dioxide” means a naturally occurring gas, having the chemical symbol CO₂, which also occurs as a by-product of burning fossil fuels (such as oil, gas or coal), of burning biomass, of land-use changes and of industrial processes. It is the principal anthropogenic Greenhouse Gas that affects the Earth’s radiative balance.

"Carbon Dioxide Equivalent Emissions" means emissions from all Greenhouse Gases other than carbon dioxide expressed in carbon dioxide equivalent metric tonnes, calculated by multiplying the mass of a Greenhouse Gas by its carbon dioxide equivalent conversion coefficient as set out opposite the Greenhouse Gas in Schedule 4.

"Carbon Plan" means the plan prepared and submitted in accordance with section 42.

"Carbon Price" means the value set out in section 10 and section 11.

"Carbon Report" means the report prepared and submitted in accordance with section 42.

"Carbon Storage Plan" means the plan prepared and submitted in accordance with section 68.

"Carbon Storage Report" means the report prepared and submitted in accordance with section 67.

"Carbon Tax Liability" means the tax liability calculated in accordance with sections 16 to 18 in respect of Fuel Facilities and the tax liability calculated in accordance with section 20 in respect of Large Industrial Emitters.

"Carbon Tax" means the carbon tax imposed under section 8.

"Carbon Tax Impact Report" means a report published every three (3) years by the Minister of [X] in accordance with section 74.

"Carbon Tax Information Sharing Committee" means a committee formed in accordance with section 76.

"Carbon Tax Stakeholders Discussion Group" means a stakeholder discussion group formed in accordance with section 75.

"Carbon Tax Taxpayer Register" means the register set out in section 88.

"Carbon Usage Plan" means the plan prepared and submitted in accordance with section 70.

"Carbon Usage Report" means the report prepared and submitted in accordance with section 69.

"Coal Mining Facility" means any Facility where coal is extracted.

"Coal Processor" means any Facility where coal is crushed, screened, sized, graded, cleaned, dried, or otherwise prepared and loaded for transit.

"Domestic Consumer" is any person that combusts fuel within the jurisdiction of the [Commonwealth Country].

"Emissions Intensity Benchmark" means the average amount of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions in metric tonnes emitted during the production of a unit of that good.

"Facility" means a single site at which any Business Activity is carried out.

"Flaring" or "Flared" means the controlled ignition of gas without the production of useful energy.

"Fuel" means the fuels set out in Schedule 1.

"Fuel Emissions Report" means the report set out in Part 6

"Fuel Emissions Monitoring Plan" means the plan set out in Part 6

"Fuel Facilities" means any Facility that extract, import, process, refines or otherwise treats fuels and includes coal mining facilities, petroleum field facilities, processing facilities and importers.

"Gas Processor" means any Facility that processes natural gas to recover natural gas liquids (including condensate, natural gasoline and liquefied petroleum gas) and any other substances.

"Greenhouse Gas" means the gases set out in Schedule 3. "Imported Gas" means any gas that has entered [the jurisdiction] from outside of the territory [or customs area].

"Importer" means any person that imports any Fuel.

"Industrial Processes" means a manufacturing process that chemically or physically transforms materials for commercial use.

"Industrial Process Carbon Emissions" means all Carbon Dioxide emissions from the Industrial Processes undertaken at the Facility of a Large Industrial Emitter that involve chemical or physical transformations other than Fuel combustion.

Emissions from Fuel combustion to provide heat for these Industrial Processes are not part of Industrial Process Carbon Emissions, whether the combustion is internal or external to the process equipment.

"Large Industrial Emitter" means a person within the definition of section 21.

"Litre" means,

- a. with respect to fuel in liquid form, one cubic decimetre, or
- b. with respect to fuel in the form of liquefied petroleum gas, 0.5 kg.

"Minister" means the Minister of [Tax or Environment].

"Ministry" means the Ministry of [Tax or Environment].

"Month" means a calendar month.

"Natural Gas" means a flammable gas occurring naturally underground, comprised of methane and other hydrocarbons.

"Oil" or "Crude Oil" means a mixture that consists mainly of pentanes and heavier hydrocarbons, which may contain sulphur and other non-hydrocarbon compounds, that is recoverable at a well from an underground reservoir and that is liquid at the conditions under which its volume is measured or estimated. It does not include solution gas or natural gas liquids.

"Oil Refiner" means a Facility used for manufacturing petroleum, oil or hydrocarbon products from condensate, crude oil, synthetic crude oil or other hydrocarbon feedstock.

"Operator" of a Facility is the person referred to in section 12.

"Petroleum" means crude oil, condensate, natural gas, natural gas liquids, liquified petroleum products or any blend thereof.

"Petroleum Field Facility" means any Facility engaged in the exploration, production, withdrawal or gathering of Petroleum.

"Processing Facility" means any Facility where Fuel is processed or otherwise prepared for transit or use, and includes Facilities of Coal Processors, Gas Processors and Oil Refiners.

"Recognised Emissions Auditor" means a person accredited under section 48.

"Regulations" means regulations made pursuant to this Act.

"Reporting Period" means a fiscal year.

"US Dollar" means the national currency of the United States of America.

Application

- Section 4. (1) This Act applies to [X territories etc].
- (2) Except as provided in section [X], this Act binds the State.
- (3) 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 State.

Part 2: Relevant Emissions

Fuel Emissions, Greenhouse Gas Emissions and Industrial Processes

- Section 5. The Carbon Tax relating to fuels will be levied according to the Carbon Content of the fuels.
- Section 6. The Carbon Tax relating to Greenhouse Gases arising from Industrial Processes will be levied according to the Carbon Dioxide Equivalent Emissions of the Greenhouse Gas.
- Section 7. The Carbon Tax relating to Carbon Dioxide arising from Industrial Processes will be levied according to Industrial Process Carbon Emissions.

Part 3: Carbon Tax, Emissions Threshold and Carbon Price

Carbon Tax

- Section 8. (1) The Minister of [X] shall levy a tax known as the Carbon Tax.
- (2) The Carbon Tax accrues at the end of the fiscal year in question and shall be paid in accordance with this Act.

Calculation of the Carbon Tax

- Section 9. (1) The Carbon Tax consists of:
- a. the Carbon Tax on the Carbon Content of all fuels; and
 - b. the Carbon Tax on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions.
- (2) The Carbon Tax on the Carbon Content of all fuels is calculated as follows: $A \times B$, where:
- A is the Carbon Content of all fuels produced by Fuel Facilities in metric tonnes rounded up to the nearest metric tonne; and
- B is the Carbon Price.
- (3) The Carbon Tax on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions is calculated as follows: $A \times B$, where:
- A is the Industrial Process Carbon Emissions and the Carbon Dioxide Equivalent Emissions in metric tonnes arising from the Industrial Processes of Large Industrial Emitters rounded up to the nearest metric tonne; and
- B is the Carbon Price.

Carbon Price

- Section 10. (1) Content 10. (1) The Carbon Price for 2024 is [X] US Dollars per metric tonne.
- (2) (2) The Carbon Price shall increase by [Y] US Dollars each tax year until it reaches [Z] US Dollars per metric tonne.
- Section 11. For each tax year after the tax year in which the Carbon Price reached [Z] US Dollars per metric tonne, the Carbon Price shall increase by the rate of inflation as measured by the [Producer Price Index] plus A, where A is an amount determined by the Minister to be consistent with achieving the emissions reductions provided for in the [Commonwealth Member Country's] Nationally Determined Contributions.

Operator

- Section 12. Operator means any person who operates or controls a Facility [or where this is provided for in national legislation, to whom decisive economic power of the technical functioning of the Facility has been delegated].
- Section 13. Content 13. When considering whether a person is the Operator of a Facility, the following factors are relevant: does the person have the authority and ability to:
- a. manage site operations through having day-to-day control of plant operations, including the manner and rate of operation;
 - b. ensure that permit conditions are effectively complied with;
 - c. decide who holds key staff positions and have incompetent staff removed;
 - d. make investment and/or other financial decisions affecting performance of the Facility; or
 - e. ensure that regulated activities are suitably controlled in an emergency.
- Section 14. If more than one person is an Operator and subject to tax under the same provision of this Act, each person is jointly and severally liable for the tax.

Part 4: Operators of Fuel Facilities

Taxpayers

Section 15. The Carbon Tax on fuels shall be paid by all persons who are Operators of Fuel Facilities in respect of the Carbon Content of fuels produced at each Facility.

Calculation of the Carbon Tax Liability

- Section 16. (1) The Operator of a Coal Mining Facility or a Petroleum Field Facility shall pay the Carbon Tax on the Carbon Content of all Fuel that is:
- a. produced, mined or otherwise extracted at the Facility, and supplied, without first passing through a Processing Facility, to a Domestic Consumer, or
 - b. is Flared or otherwise combusted at the Petroleum Field Facility or Coal Mining Facility.
- (2) The Operator of a Coal Mining Facility or a Petroleum Field Facility shall pay the Carbon Tax on methane that is vented in a tax year at an amount equal to $A \times B \times C$, where
- A is the amount of methane vented in metric tonnes rounded to the nearest metric tonne,
- B is the carbon dioxide equivalent conversion coefficient for methane provided for in Schedule 4, and
- C is the Carbon Price for that tax year.
- (3) Coal produced at a Coal Mining Facility includes all coal that is mined or otherwise extracted, including coal extracted from waste refuse piles, coal extracted from slit waste product, and any other processes that produce coal.
- Section 17. (1) The Operator of a Processing Facility shall pay the Carbon Tax on the Carbon Content of all Fuel that is:
- a. the output from washing, grading, production, refining, converting, treating, or any other process at the Facility,
 - b. supplied to a Domestic Consumer for combustion without being washed, graded, refined, or otherwise processed or treated, or
 - c. is Flared or otherwise combusted at the Facility.
- (2) The Operator of a Processing Facility shall pay the Carbon Tax on all methane that is vented in a tax year at an amount equal to $A \times B \times C$, where
- A is the methane vented in metric tonnes rounded to the nearest metric tonne,
- B is the carbon dioxide equivalent conversion coefficient for methane provided for in Schedule 4, and
- C is the Carbon Price for that tax year.
- Section 18. The Operator of any Importer shall pay the Carbon Tax on the Carbon Content of all Fuel that is imported and that is not supplied to a Processing Facility.
- Section 19. The Operator of any Importer or Processing Facility that supplies Fuel destined for export where that Fuel is actually exported is eligible for a rebate of the Carbon Tax paid in accordance with sections 57 to 58 of this Act.

Part 5: Taxing Large Industrial Emitters

Taxpayers

Section 20. A Large Industrial Emitter, as defined in section 21, shall pay the Carbon Tax on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions arising as a result of its own Industrial Processes.

Large Industrial Emitters

Section 21. Large Industrial Emitters are all persons who are Operators of Facilities in the industries set out in Schedule 5 where those Facilities have Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions greater than [X].

Registration

Section 22. Any person who is a Large Industrial Emitter shall:

- a. register as a Large Industrial Emitter; and
- b. register each business Facility for which they are the Operator.

Section 23. (1) A registered Large Industrial Emitter may apply to the Minister of [X] to deregister a business Facility where they are no longer the Operator of the business Facility.

(2) A registered Large Industrial Emitter may apply to the Minister of [X] to deregister as a Large Industrial Emitter where they no longer meet the criteria set out in section 21.

Tax Base of Large Industrial Emitters

Section 24. A Large Industrial Emitter shall pay the Carbon Tax on all Industrial Process Carbon Emissions and all Carbon Dioxide Equivalent Emissions produced at the Facility.

Part 6: Reporting and Monitoring of Fuel Emissions

Fuel Emissions Report and Fuel Emissions Monitoring Plan

- Section 25. (1) The Operator of a Fuel Facility shall submit within [90 days] of the end of each fiscal year to the Minister of [X]:
- a. a Fuel Emissions Report; and
 - b. a Fuel Emissions Monitoring Plan
- in accordance with this section.
- (2) The Fuel Emissions Report shall be used for the calculation of the tax due under this legislation based on activities carried out during the fiscal year.
 - (3) The Fuel Emissions Monitoring Plan shall be in respect of the next fiscal year.
 - (4) A separate Fuel Emissions Report and Fuel Emissions Monitoring Plan shall be submitted in respect of each Facility.
 - (5) The Operator of a Fuel Facility shall submit its Fuel Emissions Report and Fuel Emissions Plan as annexes to its tax return.
- Section 26. Where a person ceases to be an Operator of a Fuel Facility during a fiscal year, the person shall submit a final Fuel Emissions Report to the Minister of [X] within one (1) Month of ceasing to be an Operator.

Minimum Criteria for Fuel Emissions Monitoring Plan and Fuel Emissions Report

- Section 27. (1) A Fuel Emissions Monitoring Plan shall be prepared and submitted in accordance with the [Regulation].
- (2) A Fuel Emissions Monitoring Plan shall include estimates, based on best available information, of:
- a. for each Coal Mining Facility or Petroleum Field Facility –
 - i. the amount of each Fuel to be produced, mined or otherwise extracted at the Facility in the next fiscal year;
 - ii. the amount of each Fuel to be produced, mined or otherwise extracted at the Facility, and subsequently supplied, without first passing through a Processing Facility, to a Domestic Consumer and the anticipated Carbon Tax Liability for each of these fuels;
 - iii. the amount of each Fuel to be supplied to a Processing Facility;
 - iv. the amount of each Fuel to be exported;
 - v. the amount of each Fuel to be Flared or otherwise combusted at the Facility and the anticipated Carbon Tax Liability for each of those fuels; and
 - vi. the amount of methane to be vented at the Facility and the anticipated Carbon Tax Liability from that venting.
 - b. for each Processing Facility –
 - i. the amount of each Fuel to be received by the Facility;
 - ii. the amount of each Fuel to be washed, graded, produced, refined or otherwise processed or treated at the Facility and the anticipated Carbon Tax Liability for each of those fuels;
 - iii. the amount of each Fuel to be supplied to a Domestic Consumer for combustion without being washed, graded, refined or otherwise processed or treated and the anticipated Carbon Tax Liability for each of those fuels;
 - iv. the amount of Fuel to be exported without being washed, graded, refined or otherwise processed or treated;
 - v. the amount of each Fuel to be Flared or otherwise combusted at the Facility and the anticipated Carbon Tax Liability for each of these fuels; and
 - vi. the amount of methane to be vented at the Facility and the anticipated Carbon Tax Liability from that venting.
 - c. for each Importer –

- i. the amount of Fuel to be imported;
 - ii. the amount of Fuel to be imported and not supplied to a Processing Facility and the anticipated Carbon Tax Liability for each of those fuels; and
 - iii. the amount of Fuel to be imported and supplied to a Processing Facility; and
 - d. for each Fuel Facility –
 - i. if applicable, a summary of any factors which the Operator anticipates may impact the estimated Fuel amounts set out in the Fuel Emissions Monitoring Plan; and
 - ii. any other information required by the [Regulation].
- Section 28. (1) A Fuel Emissions Report shall be prepared and submitted in accordance with this Act and Regulations.
- (2) A Fuel Emissions Report shall include details of:
- a. for each Coal Mining Facility or Petroleum Field Facility –
 - i. the amount of each Fuel that was produced, mined or otherwise extracted at the Facility;
 - ii. the amount of each Fuel that was produced, mined or otherwise extracted at the Facility, and subsequently supplied, without first passing through a Processing Facility, to a Domestic Consumer;
 - iii. the Carbon Tax Liability for each of the fuels produced, mined or otherwise extracted at the Facility, and subsequently supplied, without first passing through a Processing Facility, to a Domestic Consumer;
 - iv. the amount of each Fuel supplied to a Processing Facility;
 - v. the amount of each Fuel exported;
 - vi. the amount of each Fuel Flared or otherwise combusted at the Facility and the Carbon Tax Liability for each of those fuels; and
 - vii. the amount of methane vented at the Facility and the Carbon Tax Liability from that venting
 - b. for each Processing Facility –
 - i. the amount of each Fuel received by the Facility;
 - ii. the amount of each Fuel washed, graded, produced, refined or otherwise processed or treated at the Facility and the Carbon Tax Liability for each of those fuels;

- iii. the amount of each Fuel supplied to a Domestic Consumer for combustion without being washed, graded, refined or otherwise processed or treated and the Carbon Tax Liability for each of those fuels;
 - iv. the amount of Fuel exported without being washed, graded, refined or otherwise processed or treated;
 - v. the amount of each Fuel Flared or otherwise combusted at the Facility and the Carbon Tax Liability for each of these fuels; and
 - vi. the amount of methane vented at the Facility and the Carbon Tax Liability from that venting.
- c. for each Importer –
- i. the amount of Fuel imported;
 - ii. the amount of Fuel imported and not supplied to a Processing Facility and the Carbon Tax Liability for each of those fuels; and
 - iii. the amount of Fuel imported and supplied to a Processing Facility; and
- d. for each Fuel Facility –
- i. a comparison of actual amounts of Fuel imported, exported, produced, mined, extracted, Flared (or otherwise combusted), vented, processed, treated, washed, graded, refined (or otherwise processed or treated) or subject to any other reporting requirement under this Part 6 against the amounts estimated in the preceding Fuel Emissions Monitoring Plan;
 - ii. if applicable, an explanation of any difference between the Fuel amounts estimated in the preceding Fuel Emissions Monitoring Plan and actual Fuel amounts; and
 - iii. any other information as directed in the [Regulation].

Minimum Criteria for the Fuel Emissions Monitoring Plan and Fuel Emissions Report

Section 29. The Minister of [X] may refuse to accept any Fuel Emissions Monitoring Plan or Fuel Emissions Report which does not meet the minimum criteria set out in section 27 and section 28 respectively and in Regulations, and request that a Fuel Emissions Report or Fuel Emissions Monitoring Plan is re-submitted for the Minister of [X]'s approval.

Power to Request Further Information and Audit

Section 30. The Minister of [X] shall review all Fuel Emissions Reports and may:

- a. request further information from the Operator; and
- b. audit the Fuel Emissions Report.

Section 31. Any requests made by the Minister of [X] under section 30 shall be made in writing and shall include a reasonable time period within which the Operator shall comply with the request.

Appointment of a Recognised Emissions Auditor – Authority’s Obligations

- Section 32. The Minister of [X] may appoint a Recognised Emissions Auditor to assist with the audit provided for under section 30.
- Section 33. Where the Minister of [X] appoints a Recognised Emissions Auditor pursuant to section 32 the Minister of [X] shall:
- a. notify the Operator of the appointment of a Recognised Emissions Auditor within [7 days] of the appointment; and
 - b. share with the Operator any report or findings of the Recognised Emissions Auditor.

Appointment of a Recognised Emissions Auditor – Operator’s Obligations

- Section 34. Where the Minister of [X] appoints a Recognised Emissions Auditor pursuant to section 32 the Operator shall:
- a. provide the Recognised Emissions Auditor with all necessary information for the audit within [X] days from the date the Recognised Emissions Auditor requested the information;
 - b. allow the auditor access to the applicable Facility under the operational control of the Operator; and
 - c. assist the Recognised Emissions Auditor with all reasonable requests during the audit process.

Rectification of Inaccuracies and Incomplete Information

- Section 35. (1) Where the Minister of [X] identifies inaccurate or incomplete information in a Fuel Emissions Report or Fuel Emissions Monitoring Plan, it shall inform the Operator in writing and request that the Operator:
- a. where inaccurate information has been identified, rectify the identified inaccurate information;
 - b. where incomplete information has been identified, complete the identified incomplete information; and
 - c. resubmit the report, within a specified time, for the approval of the Minister of [X].
- (2) The Operator shall comply with the request within the period specified by the Minister of [X] in writing.
- (3) An Operator who fails to comply with the request within the time period specified shall be liable for a penalty of [X].
- Section 36. Where the Operator identifies inaccurate or incomplete information in a report which has already been submitted to the Minister of [X], it shall within 14 days of identifying the inaccurate or incomplete information notify the Minister of [X] in writing of the inaccurate or incomplete information in the report.
- Section 37. Upon receipt of a notification under section 36 the Minister of [X] may request in writing that the Operator rectify the inaccurate or incomplete information and submit a revised report to the Minister of [X] within the time period as specified in writing by the Minister of [X]. An Operator who fails to comply with the request within the time period specified by the Minister of [X] shall be liable for a penalty of [X].

Part 7: Reporting and Monitoring of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions

Submission of Carbon Plans and Carbon Reports

- Section 38. Large Industrial Emitters shall submit to the Minister of [X]:
- a. an Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions Monitoring Plan (Carbon Plan); and
 - b. an Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions Report (Carbon Report);
- in accordance with this section.

Carbon Plan and Carbon Report

- Section 39. (1) A Carbon Plan shall be submitted at the end of each fiscal year in which the person submitting it is a Large Industrial Emitter. The Carbon Plan shall be in respect of the next fiscal year.
- (2) When a person registers as a Large Industrial Emitter, or an existing Large Industrial Emitter acquires a new Facility, the person shall submit to the Minister of [X] an early-operation Carbon Plan within one (1) Month of registration in respect of the remainder of the current fiscal year.
- (3) A separate Carbon Plan shall be submitted in respect of each Facility.
- (4) The Carbon Plan shall be approved by the Minister of [X] following submission if it has met all relevant requirements.
- Section 40. (1) Content 40. (1) A Large Industrial Emitter shall submit a Carbon Report within [X days] of the end of each fiscal year to the Minister of [X].
- (2) The Carbon Report shall be submitted as an annex to the tax return of a Large Industrial Emitter.
- (3) A separate Carbon Report shall be submitted in respect of each Facility.
- (4) Where a Large Industrial Emitter has submitted a Carbon Plan, the Carbon Report shall refer to it and provide analysis of actual emissions against planned emissions.
- Section 41. Where a person ceases to be a Large Industrial Emitter, they shall submit a final Carbon Report to the Minister of [X] within one (1) Month.

Minimum Criteria for Carbon Plan and Carbon Report

- Section 42. (1) All Carbon Plans and Carbon Reports shall be prepared and submitted in accordance with prescribed Regulations.
- (2) A Carbon Plan shall include:
- a. a summary of the actual Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions in the preceding fiscal year and steps being taken to reduce emissions in the forthcoming fiscal year;
 - b. the amount of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions forecast to be emitted in the forthcoming fiscal year and the anticipated Carbon Tax Liability; and
 - c. a summary of any predicted trends or changes in trends of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions, including those activities which account for the majority of emissions.
- Section 43. (1) A Carbon Report shall include details of:
- a. the amount of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions emitted during the fiscal year and the Carbon Tax Liability;
 - b. how actual Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions compare to those forecasted in the preceding Carbon Plan;
 - c. if applicable, an explanation of any difference between the emissions forecasted in the preceding Carbon Plan and actual emissions;
 - d. particular activities generating Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions, including a summary of which activities generate the most emissions;
 - e. any action taken to mitigate the amount of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions; and
 - f. any other information prescribed by [Regulation].
- (2) A Carbon Report shall be submitted in the format prescribed by [Regulation].
- (3) The Minister of [X] shall refuse to accept any Carbon Plan or any Carbon Report which does not meet the minimum criteria set out in section 42 and section 43 and in this section and may request resubmission.

Power to Review and Audit Carbon Plan and Carbon Report

- Section 44. (1) The Minister of [X] shall review all Carbon Plans and Carbon Reports and may:
- a. request further information from the submitting Large Industrial Emitter; and
 - b. audit the Carbon Plan or the Carbon Report.
- (2) Any requests made by the Minister of [X] under sub-section (1) shall be made in writing and include a reasonable time period within which the Large Industrial Emitter shall comply with the request.
- (3) The Minister of [X] may appoint a Recognised Emissions Auditor to audit the Carbon Plan or the Carbon Report.

Obligations when Appointing a Recognised Emissions Auditor

- Section 45. (1) Where the Minister of [X] intends to appoint a Recognised Emissions Auditor under section 44(3), the Minister of [X] shall notify the Large Industrial Emitter of its intention to do so and give reasons for the appointment.
- (2) Where the Minister of [X] appoints a Recognised Emissions Auditor under section 44(3), the Minister of [X] shall:
- a. notify the Large Industrial Emitter of the appointment of a Recognised Emissions Auditor within [7 days] of the appointment; and
 - b. share with the Large Industrial Emitter any report or findings of the Recognised Emissions Auditor.
- (3) Where the Minister of [X] appoints a Recognised Emissions Auditor, the Large Industrial Emitter shall:
- a. provide the Recognised Emissions Auditor with all necessary information for the audit within [X] days;
 - b. allow the Recognised Emissions Auditor access to the Facility; and
 - c. assist the Recognised Emissions Auditor with all reasonable requests during the audit process.

Rectification of Inaccuracies and Incomplete Information

- Section 46. (1) Where the Minister of [X] identifies inaccurate or incomplete information in a Carbon Plan or Carbon Report, he or she shall inform the Large Industrial Emitter in writing and request that the Large Industrial Emitter:
- a. where inaccurate information has been identified, rectify the identified inaccurate information;
 - b. where incomplete information has been identified, complete the identified incomplete information; and
 - c. resubmit the Carbon Plan or Carbon Report for the approval of the Minister of [X].
- (2) The Large Industrial Emitter shall comply with the request within the time period specified by the Minister of [X] in writing.
- (3) An Operator who fails to comply with the request within the time period specified shall be liable for a penalty of [X].
- Section 47. (1) Where the Large Industrial Emitter identifies inaccurate or incomplete information in a Carbon Plan or Carbon Report, which has already been submitted to the Minister of [X], it shall within 14 days of identifying the inaccurate or incomplete information:
- a. notify the Minister of [X] in writing of the inaccurate or incomplete information in the Carbon Plan or Carbon Report; and
 - b. explain how the inaccurate or incomplete information shall be rectified by the Large Industrial Emitter.
- (2) Upon receipt of a notification under sub-section (1), the Minister of [X] may request in writing that the Large Industrial Emitter rectify the inaccurate or incomplete information and submit a revised Carbon Plan or Carbon Report to the Minister of [X] within the time period as specified in writing by the Minister of [X].

Part 8: Auditors and Record Keeping

Becoming a Recognised Emissions Auditor

- Section 48. A Recognised Emissions Auditor is a person accredited by the Minister of [X] as a Recognised Emissions Auditor in accordance with prescribed Regulations.
- Section 49. Content 49. A Recognised Emissions Auditor shall comply with the requirements and criteria prescribed in Regulations for the auditing of:
- a. Carbon Content of fuels;
 - b. Fuel Emissions Reports;
 - c. Fuel Emissions Monitoring Plans;
 - d. Industrial Process Carbon Emissions;
 - e. Carbon Dioxide Equivalent Emissions;
 - f. Carbon Plans; and
 - g. Carbon Reports.

List of Recognised Emissions Auditor

- Section 50. The Minister of [X] shall publish a list of Recognised Emissions Auditors which shall be made publicly available and accessible, including on the website of the relevant Ministry.
- Section 51. The Minister of [X] shall update the list [on an annual basis].

Obligations to Keep Records

- Section 52. (1) Every registered person, Recognised Emissions Auditor and any other person subject to this Act, shall keep and maintain accurate records of:
- a. all Carbon Plans submitted under section 38, together with all underlying relevant information;
 - b. all Carbon Reports submitted under section 38, together with any underlying relevant information;
 - c. all Fuel Emissions Plans submitted under section 25, together with any underlying relevant information;
 - d. all Fuel Emissions Reports submitted under section 25, together with any underlying relevant information; and
 - e. any other relevant information as prescribed by [Regulation].
- (2) Every registered person, Recognised Emissions Auditor, and any other person subject to this Act, shall keep and maintain the records required under section 52(1) for a period of [X] years.
- (3) The Minister of [X] may at any time request a registered person, Recognised Emissions Auditor or other person subject to this Act to submit to the Minister of [X] any records in its custody within a time period specified by the Minister of [X].
- Section 53. The Minister of [X] shall keep and maintain registers of the following:
- a. all registered persons;
 - b. all Facilities under the operational control of registered persons;
 - c. all reports and monitoring plans submitted by registered persons;
 - d. the total aggregate emissions reported by all registered persons each fiscal year;
 - e. the total aggregate tax paid by registered persons in respect of this Act each fiscal year; and
 - f. such other information as prescribed by the [Regulation].
- Section 54. Where a person deregisters under section 23, or ceases to be in operational control of a Facility, or where a registered person is wound up or dissolved, and the Minister of [X] is satisfied of the same, the Minister of [X] shall indicate that fact on all relevant registers.

- Section 55. A registered person may notify the Minister of [X] of any incomplete or inaccurate information in a written notice detailing the incomplete or inaccurate information, the correct information, and any underlying information.
- Section 56. Where any information contained in a register under section 53 is incomplete or inaccurate and the Minister of [X] is satisfied of that fact, the Minister of [X] shall update all relevant registers.

Part 9: Rebates and Exemptions

Carbon Tax Rebate on Exported Fuels

- Section 57. This section applies to any person who:
- a. is an Operator of a Fuel Facility under any of sections 12, 13, 14 and 15; and
 - b. has paid Carbon Tax in respect of fuels destined for and actually exported out of the jurisdiction.
- Section 58. (1) A qualifying person under section 57 shall be entitled to a rebate in respect of any Carbon Tax paid only in respect of taxed exported fuels. A rebate may be claimed within (4) years from the date of taxation and, subject to approval by the Minister of [X], shall be equal to the sum of Carbon Tax actually paid on any exported fuels.
- (2) A person shall supply evidence of export in support of any claim for a rebate under this section, including:
- a. an official notification of export;
 - b. where exported by sea, a copy of the bill of lading or shipping certificate;
 - c. where exported by air, a signed copy of the waybill including flight details and any confirmation of export from the air carrier; or
 - d. any other official documents which document the date, destination and details of the export.
- (3) A person shall also supply a due diligence report to support their claim for a rebate under this section, which includes:
- a. evidence of demand in the export destination for the exported Fuel;
 - b. evidence that the amount of Fuel exported is not in excess of any demand in the export destination;
 - c. any correspondence regarding the export; and
 - d. any contractual documentation governing the export.

- (4) The Minister of [X] shall review the claim for rebate, supporting evidence and due diligence report and either:
 - a. approve the rebate and provide the correct amount to the Operator;
 - b. request further information or evidence in support of the claim for rebate; or
 - c. refuse the rebate, giving reasons for his or her decision.
- (5) Where the Minister of [X] requests further information or evidence in support of the claim for rebate, the Operator shall provide such information within the timeframe reasonably specified by the Minister of [X].
- (6) An Operator may not submit a claim for a rebate in respect of any Carbon Tax paid on Fuel later than four (4) years after the date the Carbon Tax on such Fuel was paid.

Rebate on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions from Trade Exposed Sectors

- Section 59. (1) The Minister of [X] may designate trade exposed sectors where:
- a. there is substantial evidence that the Carbon Tax has caused or threatens to cause serious injury to domestic industry in that sector; and
 - b. [it is in the national interest to do so].
- (2) The Minister of [X] shall keep a complete and accurate register of sectors that have been designated trade exposed sectors, which shall be made publicly available [X] months in advance of any fiscal year to which it applies.
- (3) The Minister of [X] shall review and amend the register of trade exposed sectors on an annual basis.
- (4) A registered person in a trade exposed sector is entitled to an annual rebate in respect of any Carbon Tax paid in relation to Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions.
- (5) Any rebate due to a registered person in a trade exposed sector shall be calculated based on the formula $A \times B \times C$ where:
- A is the Carbon Price for that tax year;
- B is the Emissions Intensity Benchmark for that good; and
- C is the units of that good produced.
- (6) A registered person shall provide evidence to support their claim for a rebate under this section, including:
- a. proof of payment of Carbon Tax on Industrial Process Carbon Emissions;
 - b. proof of payment of Carbon Tax on Carbon Dioxide Equivalent Emissions; and
 - c. proof of the units of each good produced.
- (7) Where trade exposed sectors are designated under this section, the Minister of [X] shall make Regulations providing for the Emissions Intensity Benchmark for each good and any other matters required for the effective operation of the Carbon Tax rebate for Industrial Processes Carbon Emissions and Carbon Dioxide Equivalent Emissions from trade exposed sectors.

Ringfencing of Revenue from Carbon Tax

- Section 60. Revenues generated from the Carbon Tax under this Act shall be used by the Minister of [X] to develop or support programmes which seek to:
- a. assist low-income households with the cost of energy;
 - b. improve low-carbon energy access for low-income households;
 - c. invest in sources of renewable energy;
 - d. finance CCS and CCU Facilities; or
 - e. support decarbonisation and climate adaptation measures.
- Section 61. The programmes financed by revenues generated from the Carbon Tax under this Act shall be approved, budgeted and reported on by the Minister of [X] through the annual budget process and other existing processes.

Part 10: Payments to Carbon Capture, Usage and Storage Facilities

Operators of CCS Facilities and CCU Facilities

- Section 62. This part shall apply to:
- a. Operators of CCS Facilities situated within the jurisdiction which are operated on a defined site within a geological formation used for the geological storage of CO₂; and
 - b. Operators of CCU Facilities situated within the jurisdiction.

Criteria for CCS and CCU Facilities

- Section 63. CCS and CCU Facilities under this section:
- a. shall be approved by the Minister of [X] in accordance with Regulations;
 - b. shall be in possession of a valid CCS or CCU permit granted on the basis of objective and transparent criteria set out in Regulations;
 - c. shall comply with all requirements, including reporting and monitoring requirements as prescribed in Regulations; and
 - d. shall meet any other criteria which may be specified by the Minister of [X] in Regulations.
- Section 64. Where an Operator of one or more CCS or CCU Facilities satisfies the criteria set out in sections 62 and 63, it may make an application to the Minister of [X] to become a registered CCS or CCU Operator.

Application for Registration of a CCS or CCU Operator

- Section 65. An application shall include:
- a. proof of all compliance with the criteria in sections 62 and 63;
 - b. all documents and information pertaining to the ownership, development and management of each CCS or CCU Facility;
 - c. a report carried out by an independent CCS auditor or CCU auditor attesting to the safety and condition of each CCS or CCU Facility; and
 - d. any other supporting information as specified by the Minister of [X] and/or in Regulations.

Obligations of a Registered CCS or CCU Operator

- Section 66. Registered CCS and CCU Operators shall:
- a. submit a Carbon Storage Report or Carbon Usage Report (as applicable) to the Minister of [X] within [90 days] of the end of the fiscal year;
 - b. submit a Carbon Storage Plan or Carbon Usage Plan (as applicable) to the Minister of [X] within [90 days] of the end of the fiscal year, in respect of the next fiscal year; and
 - c. provide any information without delay as reasonably requested by the Minister of [X] in respect of CCS or CCU activities including the results of any audits, assessments, or inspections of a CCS or CCU Facility.

Submission of a Carbon Storage Report and Carbon Storage Plan

- Section 67. A Carbon Storage Report shall include:
- a. the amount of Carbon Dioxide captured, transported and stored on an annual basis;
 - b. details on the methods of capture, transport and storage of Carbon Dioxide at the CCS Facility;
 - c. the amount of Greenhouse Gas emitted on an annual basis as a result of CCS activities;
 - d. the details of any leakage of Carbon Dioxide as a result of CCS activities;
 - e. the details of any health, safety, chemical audits, assessments or inspections carried out during the year in respect of the CCS Facility; and
 - f. any other information as may be specified by the Minister of [X] and/or in Regulations.
- Section 68. A Carbon Storage Plan shall include:
- a. a summary of the actual Carbon Dioxide emissions captured and stored in the preceding fiscal year;
 - b. the amount of Carbon Dioxide emissions forecast to be captured and stored in the forthcoming fiscal year;
 - c. a summary of any planned steps or actions to be taken in the forthcoming fiscal year which will or may have an impact on the amount of Carbon Dioxide emissions captured and stored during the forthcoming fiscal year; and
 - d. any other information as specified by the Minister of [X] and/or required in Regulations.

Submission of a Carbon Usage Report and Carbon Usage Plan

- Section 69. A Carbon Usage Report shall include:
- a. the amount of Carbon Dioxide captured, transported and used on an annual basis in accordance with Regulations;
 - b. details on the methods of capture, transport, storage (if applicable) and usage of Carbon Dioxide used at the CCU Facility;
 - c. the amount of Greenhouse Gas emitted on an annual basis as a result of CCU activities;
 - d. the details of any leakage of Carbon Dioxide as a result of CCU activities;
 - e. the details of any health, safety, chemical audits, assessments or inspections carried out during the year in respect of the CCU Facility; and
 - f. any other information as may be specified by the Minister of [X] and/or required in Regulations.
- Section 70. A Carbon Usage Plan shall include:
- a. a summary of the actual Carbon Dioxide emissions captured and used in the preceding fiscal year;
 - b. the amount of Carbon Dioxide emissions forecast to be captured and used in the forthcoming fiscal year;
 - c. a summary of any planned steps or actions to be taken in the forthcoming fiscal year which will or may have an impact on the amount of Carbon Dioxide emissions captured and used during the forthcoming fiscal year; and
 - d. any other information as may be specified by the Minister of [X] and/or required in Regulations.

Applications for CCUS Development Payment

- Section 71. (1) Registered CCS and CCU Operators, which are not also Large Industrial Emitters, shall be entitled to make an application to the Minister of [X] to claim a CCUS Development Payment for the benefit of an annual payment towards the development and management of a CCS or CCU Facility.
- (2) Applications for a CCUS Development Payment shall be made on an annual basis and include:
- a. evidence of a valid registration of a CCS or CCU Operator in accordance with this legislation;
 - b. a copy of the most recent Carbon Storage Report and Carbon Storage Plan or Carbon Usage Report and Carbon Usage Plan (as applicable) submitted to the Minister of [X] for the relevant Facility;
 - c. the total amount of Carbon Dioxide captured, transported and stored or used to the nearest metric tonne at the relevant Facility for the preceding fiscal year;
 - d. evidence supporting the total amount of Carbon Dioxide captured, transported and stored or used to the nearest metric tonne at the relevant Facility for the preceding fiscal year;
 - e. the sum of any CCUS Development Payment claimed; and
 - f. any other information as may be specified by the Minister of [X] and/or required in Regulations.
- (3) The Minister of [X] shall review each application for a CCUS Development Payment and may request any additional reasonable information as needed to determine the application.
- (4) Registered CCS and CCU Operators making an application for a CCUS Development Payment shall respond to any request for further information from the Minister of [X] within the timeframe specified by the Minister of [X] or, in the absence of a specified timeframe, as soon as reasonably practicable.
- (5) The Minister of [X] may refuse an application for a CCUS Development Payment where:
- a. the application does not meet the minimum criteria set out in this section;
 - b. insufficient or incomplete information is provided to support the application;
 - c. the Operator submitting the application has been or is subject to any penalties or sanctions under the [Regulation] related to the operation and management of a CCS or CCU Facility [during the preceding fiscal year]; or

- d. the Operator submitting the application is also a Large Industrial Emitter.
- (6) The availability of a CCUS Development Payment to CCS Operators and CCU Operators may be subject to review in accordance with sub-section (3).

Calculation of a CCUS Development Payment

- Section 72. The amount of any CCUS Development Payment due to an Operator shall be calculated as follows: $A \times B$, where:
- A is the amount of Carbon Dioxide stored or used during the relevant period rounded up to the nearest metric tonne; and
- B is [X%] of the Carbon Price.

Register of Operators of CCS and CCU Facilities

- Section 73. The Minister of [X] shall keep and maintain a public register of all CCS and CCU Operators including details of:
- a. the location and status of all CCS and CCU Facilities within the jurisdiction;
 - b. all reports and plans submitted by registered CCS and CCU Operators;
 - c. the total aggregate amount of Carbon Dioxide emissions captured, stored, transported and used by registered CCS and CCU Facilities each fiscal year;
 - d. the total aggregate sum paid to CCS and CCU Operators each fiscal year under this section; and
 - e. such other information as may be specified by the Minister of [X] and/or required in Regulations.

Part 11: Carbon Tax Monitoring, Stakeholder Engagement And Intra-Governmental Coordination

Carbon Tax Impact Report

- Section 74. (1) The Minister of [X] shall prepare a Carbon Tax Impact Report every three (3) years which shall include:
- a. details of all revenues generated by the Carbon Tax;
 - b. an analysis of the impact of the Carbon Tax on economic growth and Greenhouse Gas emissions;
 - c. details of the uses of such revenues generated by the Carbon Tax in accordance with section 60;
 - d. an analysis of the social, economic and environmental impact of any and all programmes, schemes or initiatives for which such revenues have been used; and
 - e. any other details as prescribed by the [Regulation].
- (2) The Minister of [X] shall present the Carbon Tax Impact Report with the annual budget for the year in which the Carbon Tax Impact Report is due. The first Carbon Tax Impact Report shall be due in [year].
- (3) The Minister of [X] shall publish and make publicly accessible the Carbon Tax Impact Report on the day on which it is presented.

Carbon Tax Stakeholders Discussion Group

- Section 75. (1) The Minister of [X] shall establish a Carbon Tax Stakeholders Discussion Group.
- (2) The Carbon Tax Stakeholders Discussion Group shall be composed of representatives of all groups of people impacted or concerned by the Carbon Tax including:
- a. local indigenous groups and communities;
 - b. youth groups;
 - c. low-income households and communities;
 - d. workers unions;
 - e. workers in trade exposed sectors;
 - f. men and women, recognising that women are particularly vulnerable to the impacts of climate change and that it is important that they are represented; and
 - g. any other impacted or concerned group of persons.
- (3) Each group of people identified and invited to take part in the Carbon Tax Stakeholders Discussion Group shall elect [number] representatives and a group facilitator to be members of the Carbon Tax Stakeholders Discussion Group.
- (4) The Minister of [X] shall identify, at the outset of each fiscal year, which groups of people should be represented in the Carbon Tax Stakeholders Discussion Group. The Minister of [X] shall consider applications and proposals from concerned persons to be included in the Carbon Tax Stakeholders Discussion Group over the course of each fiscal year. Such applications and proposals need not be made in writing but shall be communicated to the Minister of [X].
- (5) The Minister of [X] shall consult with the Carbon Tax Stakeholders Discussion Group every six [6] Months on the following matters:
- a. the impact of the Carbon Tax on the communities and groups concerned;
 - b. any recommendations made by the Carbon Tax Stakeholders Discussion Group regarding the Carbon Tax; and
 - c. any other business which is related to the Carbon Tax, the implementation and operation of the Carbon Tax, and the impact of the Carbon Tax on the representative members of the Carbon Tax Stakeholders Discussion Group.
- (6) The Minister of [X] may also consult with the Carbon Tax Stakeholders Discussion Group in relation to ad hoc matters.

- (7) The cost of financing and facilitating the Carbon Tax Stakeholders Discussion Group and the responsibility for providing all secretarial services for the Carbon Tax Stakeholders Discussion Group shall be borne by the Minister of [X].

Requirement for Intra-Governmental Coordination and Data Sharing

- Section 76.
- (1) All Government agencies and departments involved in the administration, implementation or operation of the Carbon Tax shall cooperate, collaborate and coordinate to promote the best possible administration of the Carbon Tax.
 - (2) The Government agencies and departments shall establish a Carbon Tax Information Sharing Committee for the purpose of sharing information relating to the administration, implementation and operation of the Carbon Tax and promoting the best possible administration of the Carbon Tax.
 - (3) The Carbon Tax Information Sharing Committee shall be formed of representative senior officials nominated by each involved Government agency or department. Each representative shall serve as a member of the Carbon Tax Information Sharing Committee for a period not exceeding four [4] fiscal years.
 - (4) The Minister of [X] shall develop other such modes of collaboration, cooperation and coordination as he or she sees fit for the purposes of the administration, implementation or operation of the Carbon Tax.

Part 12: Tax Administration

Administration

- Section 77. The Minister of [X] is responsible for the administration and enforcement of this Act.
- Section 78. The Minister of [X] may appoint, by name or office, any officer or employee of the Ministry to carry out such function or duty, or exercise such power, conferred on the Minister of [X] under this Act, as the Minister of [X] may specify.
- Section 79. Sections [X], [Y] and [Z] of the Corporate Tax Act [or Tax Administration Act or similar] shall apply to the administration of the Carbon Tax under this Act.

Right to Audit

- Section 80. The Minister of [X] is granted discretionary powers of audit and inspection under this section for the purpose of administering and enforcing this Act and applicable Regulations. Such powers shall be exercised in accordance with sections 81 to 84 and the Regulations.
- Section 81. Where the Minister of [X] believes, on reasonable grounds, that any premises of an Operator or registered person contains anything or information that is relevant to compliance with or the administration or enforcement of this Act, the Minister of [X] may authorise an officer to enter the premises of the Operator or registered person during normal business hours with or without notice, and exercise the powers set out in sections 82 and 83.
- Section 82. An authorised officer entering the premises of an Operator or registered person under section 81 may request the following from any person found on the premises:
- a. the person's name, address and any proof of identity; and
 - b. any information and documentation as reasonably requested by the authorised officer for the purposes of administering and enforcing this Act.
- Section 83. An authorised officer may:
- a. search the premises for anything or information which relates to compliance with this Act;
 - b. inspect, audit and examine any accounts, books, documents or records kept on the premises including electronic documents, records, computer programs and software;
 - c. make copies of or take extracts from any accounts, books, documents or records, including electronic documents, records, programs and software;
 - d. take photographs, make videos and recordings, and make any image on the premises of any activity, thing or information;
 - e. inspect, examine or test anything on the premises which may relate to compliance with this section; or
 - f. take possession of anything on the premises for the purpose of examination, inspection, checking and copying any part of such thing where:
 - i. examination, inspection, checking or copying cannot in the opinion of the authorised officer be carried out at the premises;
 - ii. in the opinion of the authorised officer, there is a risk that the thing may be destroyed, interfered with or moved if possession is not taken; or

- iii. in the opinion of the authorised officer, the thing may be required as evidence of non-compliance with this Act.

Section 84. Failure to comply with requests made under section 82, wilful misstatement by a person in response to a request made under section 82, or obstruction of any of the powers set out in sections 81, 82 and 83 shall constitute an offence and shall result in liability on conviction for a fine not exceeding [X].

Part 13: Miscellaneous

Appeals to Minister

- Section 85. Any person who does not agree with a decision made by the Minister of [X] concerning:
- a. the registration or deregistration of a person or Facility;
 - b. the approval of a Carbon Plan or Carbon Report by the Minister of [X];
 - c. the appointment of a Recognised Emissions Auditor by the Minister of [X];
 - d. the refusal of a rebate under Part 9 of the Act by the Minister of [X];
 - e. the refusal to revise or accept a revised [Monitoring Plan] or [Report] by the Minister of [X]; or
 - f. misuse of the powers of audit and inspection under sections 79, 80, 81, 82 and 83 by the Minister of [X]
- may appeal against the decision to the relevant authority.
- Section 86. (1) An appeal under section 85 shall be made in writing and delivered to the relevant authority within [1] Month of the Minister of [X]'s decision.
- (2) A notice of appeal shall include details of the grounds of appeal.
- (3) The relevant authority may request further information from the appellant in relation to the appeal, any documents within the appellant's control which are relevant to the appeal and any other thing which the relevant authority considers to be relevant to the appeal.
- (4) The relevant authority may establish a panel of persons with expert or specialised knowledge to assist him or her in the determination of the appeal. The opinion of the panel shall be advisory and the ultimate decision on the appeal shall be that of the relevant authority.
- (5) Until the appeal is determined, the decision of the Minister of [X] subject to appeal shall remain in effect unless otherwise directed by the relevant authority.
- Section 87. Upon consideration of an appeal, the relevant authority may:
- a. dismiss the appeal for reasons of triviality, frivolity or lack of evidence;
 - b. confirm the appeal and vary or reverse the decision of the Minister of [X];

- c. make a direction to the Minister of [X] to reconsider his or her decision; or
- d. make any other direction as the relevant authority may reasonably see fit having considered all of the circumstances.

Carbon Tax and Taxpayer Register

- Section 88. (1) The Minister of [X] shall keep a register of Fuel Facilities and Large Industrial Emitters in accordance with this section (Register).
- (2) The Register shall consist of:
- a. a list of Operators of Fuel Facilities and Large Industrial Emitters;
 - b. documents from Operators of Fuel Facilities and Large Industrial Emitters delivered to the Minister of [X] under this Act or Regulations; and
 - c. any other information required to be included in the Register by this Act or under the Regulations.
 - d. The Minister of [X] may make such Regulations as are necessary or expedient for the proper administration and implementation of the provisions of this Act.

Power to Make Regulations

- Section 89. The Minister of [X] may make such Regulations as are necessary or expedient for the proper administration and implementation of the provisions of this Act.

Schedule 1: Fuels

Fuel	Definition
	Oil products
Crude oil	Crude oil means a mixture of hydrocarbons that exists in liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.
Orimulsion®	Orimulsion® means a liquid fuel consisting of (i) a natural bitumen of 7 - 10° API, (ii) water and (iii) a surfactant.
Natural gas liquids	Natural gas liquids (NGLs) mean hydrocarbons composed exclusively of carbon and hydrogen. These include ethane, propane, butane, isobutane, pentane and pentane plus.
Motor gasoline	Motor gasoline means a mixture of relatively volatile hydrocarbons, with or without small quantities of additives, blended to form a fuel suitable for use in spark-ignition engines. It includes conventional gasoline, reformulated gasoline and all types of oxygenated gasoline.
Aviation gasoline	Aviation gasoline means any gasoline and any other inflammable or combustible gas or liquid by whatever name such gasoline, gas or liquid is known or sold, usable as fuel for the operation of aircraft.
Jet gasoline	Jet gasoline means a gasoline-based substance suitable to power an aircraft that is propelled by a turbine.
Jet kerosene	Jet kerosene means a kerosene-based substance suitable to power an aircraft that is propelled by a turbine.
Other kerosene	Other kerosene means kerosene other than jet kerosene. Other kerosene is a light petroleum distillate that is used in space heaters, cook stoves and water heaters and is suitable for use as a light source when burned in wick-fed lamps.
Shale oil	Shale oil means crude oil that is generated in-situ and retained in shale matrix storage in shales of sources rock origin and obtained there from through boreholes.
Gas/Diesel oil	Gas/Diesel oil means a fuel used in diesel engines and heating installations. The distillation range lies between 180 and 380 degrees Celsius. Gas oil is the most common name for this product. However, the term diesel oil is often used due to the use in diesel engines. This product includes heating gasoil of which the distillation range goes up to 540 degrees Celsius.
Residual fuel oil	Residual fuel oil means a general classification for heavier oils (No. 5 and No. 6 fuel oils) that remain after the distillate fuel oils and lighter hydrocarbons are distilled away in refinery operations.
Liquified petroleum gases	Liquified petroleum gases (LPG) means a group of hydrocarbon-based gases derived from crude oil or natural gas. LPG is mostly propane, butane or a combination of the two.
Ethane	Ethane means a colourless odourless gaseous alkane C_2H_6 found in natural gas and used as a fuel.
Naphtha	Naphtha means any of several highly volatile, flammable liquid mixtures of hydrocarbons distilled from petroleum, coal tar and natural gas and used as fuel, as solvents and in making various chemicals.
Bitumen	Bitumen means a naturally occurring viscous mixture consisting mainly of pentanes and heavier hydrocarbons.

Fuel	Definition
Lubricants	Lubricants means all petroleum products including diesel, petrol, heavy fuel oil and kerosene.
Petroleum coke	Petroleum coke means a solid carbonaceous residue produced from a coker after cracking and distillation from petroleum-refining operations, including such residues produced by petroleum upgraders in addition to petroleum refining.
Refinery feedstocks	Refinery feedstock means crude oil, blendstock, feedstock and intermediate petroleum products.
Refinery gas	Refinery gas means the residual gas produced at a refinery and left over after all normally useable products (including liquefied petroleum gas) have been made or extracted from the crude or a feed stock.
Paraffin waxes	Paraffin waxes means the by-product of heating or distilling petroleum.
White spirit/SBP	White spirit is a flammable, clear, colourless liquid composed of petroleum hydrocarbons.
Other petroleum products	Other petroleum products means residual fuel oil or any refined petroleum product (including any natural liquid and any natural gas liquid product) that is intended for combustion, emits CO ₂ when combusted and is not included elsewhere in this Schedule.
Coal products	
Anthracite	Anthracite means coal having a volatile matter of less than 14.0% on a dry ash-free basis.
Coking coal	Coking coal means bituminous coal with a quality that allows the production of a coke suitable to support a blast furnace charge. Its gross calorific value is equal to or greater than 24,000 kJ/kg on an ash-free but moist basis.
Other bituminous coal	Bituminous coal means a common type of coal with moisture content less than 20% by weight.
Sub-bituminous coal	Sub-bituminous coal is a lower grade of coal that contains 35–45% carbon.
Lignite	Lignite coal means consolidated lignite coal having less than 8,300 British thermal units per pound, moist and mineral-matter-free.
Oil shale	Oil shale means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.
Tar sands	Tar sands means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either a) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or b) contains a hydrocarbonaceous material and is produced by mining or quarrying.
Brown coal briquettes	Brown coal briquettes are a composition fuel manufactured from lignite or sub-bituminous coal, produced by briquetting under high pressure without the addition of a binding agent, including dried lignite fines and dust.
Patent fuel	Patent fuels means a composition of fuel manufactured from hard coal fines with the addition of a binding agent.
Coke oven coke	Coke oven coke means the solid product obtained from the carbonisation of coal (principally coking coal) at a high temperature and includes coke breeze and foundry coke.

Fuel	Definition
Lignite coke	Lignite coke means the lowest grade coal with the least concentration of carbon.
Gas coke	Gas coke means a gaseous mixture produced by the destructive distillation of coal that is a by-product and used as a commercial fuel.
Coal tar	Coal tar means the thick black liquid produced by distilling bituminous coal, containing benzene, naphthalene, phenols, aniline and other organic chemicals.
Gas works gas	Gas works gas means gas derived from coal and destined for distribution in the gas network.
Coke oven gas	Coke oven gas means the volatile constituents generated in the gaseous exhaust during the carbonisation of bituminous coal to form coke.
Blast furnace gas	Blast furnace gas means the gas product from iron ore smelting when hot air passes over coke in blast ovens; it contains Carbon Dioxide, carbon monoxide, hydrogen, and nitrogen and is used as fuel gas.
Oxygen steel furnace gas	Oxygen steel furnace gas means the gas obtained as a by-product of the production of steel in an oxygen furnace (or basic oxygen furnace): it is recovered on leaving the furnace. The gas is also known as converter gas or LD gas.
Natural gas	
Natural gas	Natural gas means all hydrocarbons in a gaseous state at standard temperature and pressure (including wet gas, dry gas and residue gas), but excluding crude oil.
Other wastes	
Municipal waste (non-biomass fraction)	Municipal waste is a refuse-derived fuel produced from combustible components known as municipal solid waste. It is created when waste is shred, dried, baled and then finally burned to produce electricity.
Waste oils	Waste oil means any type of refined crude oil or synthetic oil that can no longer perform its intended use.

Schedule 2: Fuel Embedded Carbon Content

Column One	Column Two
Fuel	CO ₂ emissions factor (mass basis per metric tonne)
Oil products	
Crude oil	3.101
Orimulsion	2.118
Natural gas liquids	2.838
Motor gasoline	3.070
Aviation gasoline	3.101
Jet gasoline	3.101
Jet kerosene	3.153
Other kerosene	3.149
Shale oil	2.792
Gas/diesel oil	3.186
Residual fuel oil	3.127
Liquified petroleum gases	2.985
Ethane	2.858
Naphtha	3.263
Bitumen	3.244
Lubricants	2.947
Petroleum coke	3.169
Refinery feedstocks	3.152
Refinery gas	2.851
Paraffin waxes	2.947
White spirit/SBP	2.947
Other petroleum products	2.947
Coal products	
Anthracite	2.625
Coking coal	2.668
Other bituminous coal	2.441
Sub-bituminous coal	1.816
Lignite	1.202
Oil shale and tar sands	0.952
Brown coal briquettes	2.018
Patent fuel	2.018
Coke oven coke	3.017
Lignite coke	3.017
Gas coke	3.017
Coal tar	2.260
Gas works gas	1.718
Coke oven gas	1.718

Column One		Column Two
Fuel		CO ₂ emissions factor (mass basis per metric tonne)
	Blast furnace gas	0.642
	Oxygen steel furnace gas	1.285
Natural gas		
	Natural gas	2.693
Other wastes		
	Municipal waste (non-biomass fraction)	0.917
	Waste oils	2.947

Schedule 3: Greenhouse Gases

“Greenhouse Gas” means the following gases:

- a. Carbon Dioxide (CO₂)
- b. Methane (CH₄)
- c. Nitrous oxide (N₂O)
- d. Hydrofluorocarbons (HFCs)
- e. Perfluorocarbons (PFCs)
- f. Sulphur hexafluoride (SF₆)
- g. Nitrogen trifluoride (NF₃)

Schedule 4: Greenhouse Gas to Carbon Dioxide Equivalent Conversion Coefficients

	Greenhouse gas	Chemical formula of greenhouse gas	Carbon dioxide equivalent conversion coefficient
1	Methane	CH ₄	21
2	Nitrous oxide	N ₂ O	310
3	Sulphur hexafluoride	SF ₆	23,900
4	Nitrogen trifluoride	NF ₃	17,200
5	The following hydrofluorocarbons (HFCs):		
	HFC-23	CHF ₃	11,700
	HFC-32	CH ₂ F ₂	650
	HFC-41	CH ₃ F	150
	HFC-125	CHF ₂ CF ₃	2,800
	HFC-134	CHF ₂ CHF ₂	1000
	HFC-134a	CH ₂ FCF ₃	1,300
	HFC-143	CH ₂ FCHF ₂	300
	HFC-143a	CH ₃ CF ₃	3,800
	HFC-152	CH ₂ FCH ₂ F	53
	HFC-152a	CH ₃ CHF ₂	140
	HFC-161	CH ₃ CH ₂ F	12
	HFC-227ea	CF ₃ CHFCF ₃	2,900
	HFC-236cb	CH ₂ FCF ₂ CF ₃	1,340
	HFC-236ea	CHF ₂ CHFCF ₃	1,370
	HFC-236fa	CF ₃ CH ₂ CF ₃	6,300
	HFC-245ca	CH ₂ FCF ₂ CHF ₂	560
	HFC-245fa	CHF ₂ CH ₂ CF ₃	1,030
	HFC-365mfc	CH ₃ CF ₂ CH ₂ CF ₃	794
	HFC-43-10mee	CF ₃ CHFCHFCF ₂ CF ₃	1,300
6	The following perfluorocarbons (PFCs):		
	PFC-14	CF ₄	6,500
	PFC-116	C ₂ F ₆	9,200
	PFC-218	C ₃ F ₈	7,000
	PFC-318	c-C ₄ F ₈	8,700
	PFC-3-1-10	C ₄ F ₁₀	7,000
	PFC-4-1-12	C ₅ F ₁₂	7,500
	PFC-5-1-14	C ₆ F ₁₄	7,400

Schedule 5: Industries

Part 5 of this Act refers to the following industries:

- a. Energy. The energy industry means any industries and activities associated with the generation, distribution and supply of electricity and gas.
- b. Transport. The transport industry means any industry and activities associated with any mode of transport, including air, road, rail and sea, as well as related services such as warehousing, handling, stevedoring, and value-added services like packaging, labelling, assembling.
- c. Manufacturing. The manufacturing industry means any industries and activities associated with the manufacture and trade based on the fabrication, processing, or preparation of products from raw materials and commodities, including all foods, chemicals, textiles, machines and equipment, all refined metals and minerals derived from extracted ores, and all lumber, wood and pulp products.
- d. Construction. The construction industry means any industry and activities associated with the building and maintenance of buildings and other infrastructure, including residential, commercial and public infrastructure. It includes mining, quarrying and forestry for the purposes of supplying materials for the construction of infrastructure and buildings, the manufacture and supply of products and the maintenance, operation and disposal of buildings and infrastructure.

Schedule 6: Example Carbon Report and Plan

Submitted in accordance with section [x] of the Commonwealth Carbon Tax Model Legislation

At the outset, details of the submitting person, Facility and any identifying information (such as a tax reference number if applicable) should be clearly displayed, including the date of the report.

a. Carbon Report for fiscal year [xx/xx]

1. Total actual emissions during fiscal year [xx/xx]

This section should clearly articulate the total amount of Greenhouse Gas ("GHG") emissions generated in the applicable fiscal year and the proposed tax payable. An example layout is suggested below.

Greenhouse gas	Chemical formula of greenhouse gas	Carbon dioxide equivalent conversion coefficient	Metric tonnes emitted during [xx/xx]	Taxation payable (taxable carbon emissions mt x Carbon Price)
Industrial Process Carbon Emissions (these will be taxed)	CO ₂	1		
Other Carbon Dioxide Emissions (these will not be taxed as they will have been taxed upstream when the Fuel was mined, processed or imported)	CO ₂	1		N/A
Methane	CH ₄	21		
Nitrous oxide	N ₂ O	310		
Sulphur hexafluoride	SF ₆	23,900		
Nitrogen trifluoride	NF ₃	17,200		
HFC-23	CHF ₃	11,700		
HFC-32	CH ₂ F ₂	650		
HFC-41	CH ₃ F	150		
HFC-125	CHF ₂ CF ₃	2,800		
HFC-134	CHF ₂ CHF ₂	1000		
HFC-134a	CH ₂ FCF ₃	1,300		
HFC-143	CH ₂ FCHF ₂	300		
HFC-143a	CH ₃ CF ₃	3,800		
HFC-152	CH ₂ FCH ₂ F	53		
HFC-152a	CH ₃ CHF ₂	140		
HFC-161	CH ₃ CH ₂ F	12		
HFC-227ea	CF ₃ CHFCF ₃	2,900		
HFC-236cb	CH ₂ FCF ₂ CF ₃	1,340		
HFC-236ea	CHF ₂ CHFCF ₃	1,370		
HFC-236fa	CF ₃ CH ₂ CF ₃	6,300		
HFC-245ca	CH ₂ FCF ₂ CHF ₂	560		

Greenhouse gas	Chemical formula of greenhouse gas	Carbon dioxide equivalent conversion coefficient	Metric tonnes emitted during [xx/xx]	Taxation payable (taxable carbon emissions mt x Carbon Price)
HFC-245fa	$\text{CHF}_2\text{CH}_2\text{CF}_3$	1,030		
HFC-365mfc	$\text{CH}_3\text{CF}_2\text{CH}_2\text{CF}_3$	794		
HFC-43-10mee	$\text{CF}_3\text{CHFCHFCF}_2\text{CF}_3$	1,300		
PFC-14	CF_4	6,500		
PFC-116	C_2F_6	9,200		
PFC-218	C_3F_8	7,000		
PFC-318	c- C_4F_8	8,700		
PFC-3-1-10	C_4F_{10}	7,000		
PFC-4-1-12	C_5F_{12}	7,500		
PFC-5-1-14	C_6F_{14}	7,400		

2. Analysis of actual emissions by activity

This section should provide analysis of activities through which emissions occur, identifying the amount and type of GHG emissions occurring from each activity. Activities that may be covered are:

- transportation including road transport, aviation, shipping, rail and pipeline (if applicable);
- manufacturing including chemical, metal, food and tobacco manufacturing;
- conversion of wood into paper or pulp;
- production of machinery;
- energy use in buildings, including commercial and residential buildings;
- other fuel combustion including electricity and heat from biomass, on-site heat sources, nuclear industry, hydroelectric storage and combined heat and power;
- waste including landfill and waste water; and
- agriculture, forestry and land use.

3. Actual emissions compared to planned emissions

This section should provide a reflection on the planned GHG provided in the Carbon Plan for the previous fiscal year. It should highlight and identify differences between the GHG emissions forecasted and actual GHG emissions, including analysis by types of GHG and GHG producing activities. This section should also explain any differences between forecasted GHG emissions and actual GHG emissions.

The first Carbon Report submitted will not be able to refer to a previous Carbon Plan. Where this is the case, it should be clearly explained in the Carbon Report.

4. Mitigation action

This section should include details of any mitigation action to reduce GHG emissions during the fiscal year.

5. Any other information required

As required by the accompanying Regulation.

6. Auditor Approval

The Report shall be reviewed and approved by an accredited auditor, as provided for in the legislation and/or accompanying legislation.

b. Carbon Plan for fiscal year [xx/xx]

While the Carbon Report looks back at GHG emissions over the preceding fiscal year, the Carbon Plan looks forward at forecasted GHG emissions for the upcoming fiscal year. It should be as detailed as possible.

1. Forecasted GHG emissions for fiscal year [xx/xx]

This section should clearly set out the GHG emissions forecasted over the upcoming fiscal year, set out by type, forecasted amounts and a forecasted tax payable (which will be subject to the Carbon Price applicable to the upcoming fiscal year). It should be noted that this will not be the tax payable which will be calculated on the basis of actual GHG emissions set out in the Carbon Report.

Greenhouse gas	Chemical formula of greenhouse gas	Carbon dioxide equivalent conversion coefficient	Forecasted metric tonnes to be emitted during [xx/xx]	Forecasted taxation payable (taxable carbon emissions mt x Carbon Price)
Industrial Process Carbon Emissions (these will be taxed)	CO ₂	1		
Other Carbon Dioxide Emissions (these will not be taxed as they will have been taxed upstream when the Fuel was mined, processed or imported)	CO ₂	1		N/A
Methane	CH ₄	21		
Nitrous oxide	N ₂ O	310		
Sulphur hexafluoride	SF ₆	23,900		
Nitrogen trifluoride	NF ₃	17,200		
HFC-23	CHF ₃	11,700		
HFC-32	CH ₂ F ₂	650		
HFC-41	CH ₃ F	150		
HFC-125	CHF ₂ CF ₃	2,800		
HFC-134	CHF ₂ CHF ₂	1000		
HFC-134a	CH ₂ FCF ₃	1,300		
HFC-143	CH ₂ FCHF ₂	300		
HFC-143a	CH ₃ CF ₃	3,800		

Greenhouse gas	Chemical formula of greenhouse gas	Carbon dioxide equivalent conversion coefficient	Forecasted metric tonnes to be emitted during [xx/xx]	Forecasted taxation payable (taxable carbon emissions mt x Carbon Price)
HFC-152	CH ₂ FCH ₂ F	53		
HFC-152a	CH ₃ CHF ₂	140		
HFC-161	CH ₃ CH ₂ F	12		
HFC-227ea	CF ₃ CHFCF ₃	2,900		
HFC-236cb	CH ₂ FCF ₂ CF ₃	1,340		
HFC-236ea	CHF ₂ CHFCF ₃	1,370		
HFC-236fa	CF ₃ CH ₂ CF ₃	6,300		
HFC-245ca	CH ₂ FCF ₂ CHF ₂	560		
HFC-245fa	CHF ₂ CH ₂ CF ₃	1,030		
HFC-365mfc	CH ₃ CF ₂ CH ₂ CF ₃	794		
HFC-43-10mee	CF ₃ CHFCHFCF ₂ CF ₃	1,300		
PFC-14	CF ₄	6,500		
PFC-116	C ₂ F ₆	9,200		
PFC-218	C ₃ F ₈	7,000		
PFC-318	c-C ₄ F ₈	8,700		
PFC-3-1-10	C ₄ F ₁₀	7,000		
PFC-4-1-12	C ₅ F ₁₂	7,500		
PFC-5-1-14	C ₆ F ₁₄	7,400		

2. Forecasted emissions by activity

This section should provide a forecast of GHG emissions by activity. Suggested activities are set out above.

3. Plan for forecasted emissions: assumptions, opportunities and challenges

This section should include analysis of how the forecasted emissions for the upcoming fiscal year have been calculated, including:

- underlying assumptions relied upon;
- mitigation action taken to reduce GHG emissions;
- opportunities identified for reduction of GHG emissions; and
- anticipated challenges to the reduction of GHG emissions and/or meeting the GHG emissions forecasted.

Although it is not a requirement of the legislation, all Carbon Plans should seek to identifying methods for the reduction of GHG emissions year on year. Where a Carbon Plan does not provide for a reduction, the reasons for this should be clearly explained in this section.

4. Any other information required

As required by the accompanying Regulation.

II Purpose Provisions and Commentaries

Part 1: Preliminary Provisions

Section 1: Short Title

Purpose To provide a shortened title by which the Act can be known or referred to.

Section 2: Commencement

Purpose To specify when the Act comes into force.

Commentary

Non-retroactivity

This Act should not be retroactive, in order to provide economic certainty.

Section 3: Interpretation

Purpose To define certain terms used frequently in this Act or that are basis to its understanding.

Commentary

Generality of definitions

The terms above are defined broadly with the intention of providing a general overview of how these terms are used in the context of carbon pricing and taxation, and to enable regulators the flexibility to define these terms more specifically as may be necessary to implement a legal framework that is compatible with a specific jurisdiction.

Alignment with the UN Framework Convention on Climate Change, the Paris Agreement, the Intergovernmental Panel on Climate Change and international practice

Wherever possible, the definitions provided in the Act are aligned to equivalent definitions provided in the UN Framework Convention on

Climate Change ("UNFCCC"), the Paris Agreement or the Glossary published by the Intergovernmental Panel on Climate Change ("IPCC") (Matthews, JBR [ed.] (2018), "Annex I: Glossary", IPCC). Such alignment represents a conscious decision to ensure that certain terms are understood in accordance with generally accepted international approaches. In particular, definitions relating to chemical compounds have been harmonised with those definitions provided under the UNFCCC and IPCC publications.

Definitions concerning practices in the extractive industries have been drafted to capture all possible interpretations and understandings of that practice in internal industry practice. Legislators and regulators may consider amending certain definitions to align to the definitions used in their national laws,

and to capture any in-country practices that are not sufficiently reflected in the definitions as drafted.

Broad definitions of "Business Activity" and "Facilities"

As the Act is drafted with a primary goal in mind, namely, to accelerate a low-carbon economic transition, the definitions of "Business Activity" and "Facilities", identifying the activities and operations that will be subject to the application of the Act, are drafted as broadly as possible. The intention is that this will encourage behavioural and operational change at several levels, and across a number of sectors and industries.

For the purposes of emissions that are not from fuels, the application of the Act is limited at Part 5, section 21, with the definition of "Large Industrial Emitters".

Section 4: Application

Purpose To define the scope of application for this Act.

Commentary

Levelling the playing field

As drafted, the Act does not include any exceptions to its application. As far as possible, all taxpayers should held to similar and proportional taxation standards. This is to encourage a level playing field, and to encourage all players to become more efficient in their operations from a carbon perspective.

Part 2: Relevant Emissions

Sections 5, 6 and 7: Fuel Emissions, Greenhouse Gas Emissions and Industrial Processes

Purpose To specify that the Carbon Tax will be levied on:

- i. fuels according to the Carbon Content of the Fuel;
- ii. Greenhouse Gas according to the Carbon Dioxide Equivalent Emissions of Greenhouse Gas; and
- iii. Industrial Process Carbon Emissions.

Commentary

Approaches to carbon taxation

There are two approaches to the application of a carbon tax. The first is the fuel approach, which taxes fossil fuels according to the Carbon Dioxide embedded within the fossil fuel. This Carbon Dioxide is emitted when the fuel is combusted. Under the fuel approach, the carbon tax is levied on the miner, refiner, processor, distributor or seller rather than on the emitter. Much of the economic burden of the tax will, however, be passed onto emitters through higher prices for fuels. Higher fuel prices for emitters will likely lead to lower demand and consumption, and accordingly lower emissions from fuel combustion.

The second approach is the direct emissions approach, which involves the direct measurement (or evidence-based estimation) of emissions. The carbon tax is levied on those emissions.

The direct emissions approach and fuel approach are often seen as alternative and mutually exclusive methods of carbon taxation. However, taxing the vast majority of emissions in many countries requires that the carbon tax

consists of two tax instruments, one following the fuel approach and the other following the direct emissions approach. This is the case as:

- a) There are some Industrial Processes that result in emissions the source of which is not fuels. An example
- b) of this is cement production, which involves the release of Carbon Dioxide from limestone. Other Industrial Processes result in GHG emissions – such as methane, nitrous oxide and hydrofluorocarbons – that are not from fuels. It is difficult to tax these emissions using the fuel approach, but they can be taxed through the direct emissions approach; and
- c) Millions of households emit Carbon Dioxide when they combust fuels to power vehicles or heat their homes. These emissions cannot be easily taxed through the direct emissions approach due to the difficulty in measuring the emissions of millions of households. However, these emissions can be taxed through the fuel approach taxing the Carbon Dioxide embedded in fuels when they are mined processed, refined, imported or distributed.

Thus, the Act, so as to tax the vast majority of emissions, follows both the fuel approach and the direct emissions approach. Specifically:

- d) There is a Carbon Tax on the Carbon Content of fuels. This tax follows the fuel approach. This tax is levied upstream on miners, refiners, processors and importers of fuels;
- e) There is a Carbon Tax on the emissions of Large Industrial Emitters. This Carbon Tax is levied on Industrial Process Carbon Emissions (Carbon Dioxide emissions from Industrial Processes the source of which is not fuels) and other (that is, not Carbon Dioxide) Greenhouse Gas emissions. This tax follows the direct emissions approach.

The Carbon Tax provided for in this Act, therefore, taxes three sources of emissions:

- a) Carbon Dioxide that is embedded in fuels, which is taxed through the fuels approach;
- b) Carbon Dioxide (the source of which is not fuels) from the Industrial Processes of Large Industrial Emitters. These emissions are taxed through the direct emissions approach; and
- c) Other Greenhouse Gas emissions (that is, not Carbon Dioxide) from Large Industrial Emitters. These emissions are taxed through the direct emissions approach.

Part 3: Carbon Tax, Emissions Threshold and Carbon Price

Section 8: Carbon Tax

Purpose To explain who will levy the Carbon Tax, and at which point in the fiscal period.

Commentary

Relevant authority

References to the "Minister of [X]" are references to whichever Minister,

Ministry, Department, Secretary of State or other authority figure by whom the Carbon Tax will be collected. Legislators and regulators should amend this wording to accurately reflect the tax collecting authority in their jurisdiction.

The relevant authority will be subject to the executive structure of each jurisdiction, and in some cases may involve two authorities with different responsibilities and obligations under the Act. Where this is the case, which authorities and the division of obligations must be clearly enumerated in the Act. It may be necessary to add additional sections that make clear the role and responsibilities of each authority.

Period of taxation

For the purposes of drafting the Act, the point at which the tax is payable is the end of the fiscal year, and the period of taxation is therefore one year. In practice, the point of accrual and payment of the Carbon Tax will be determined by existing practices and systems of taxation in each jurisdiction. To reduce the administrative burden, the deadline for payment of this Carbon Tax should be harmonised with approaches taken to similar taxes already in existence in the jurisdiction.

Section 9: Calculation of the Carbon Tax

Purpose To specify the relevant factors for the calculation of the Carbon Tax Liability for fuels and for Industrial Processes.

Commentary

The Act provides for:

- a) A Carbon Tax on the Carbon Content of all fuels. This tax is paid by the Operators of Fuel Facilities and follows the fuel approach; and
- b) A Carbon Tax on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions. This tax is paid by Large Industrial Emitters and follows the direct emissions approach.

The definition of Carbon Dioxide Equivalent Emissions provided by this Act includes emissions from all Greenhouse Gases, other than Carbon Dioxide, measured in Carbon Dioxide equivalent metric tonnes. This definition explicitly excludes Carbon Dioxide emissions, as Carbon Dioxide emissions are taxed by taxing fuels upstream and by taxing the Industrial Process Carbon Emissions of Large Industrial Emitters.

The Carbon Tax Paid by the Operators of Fuel Facilities

The Carbon Tax on the Carbon Content of all fuels produced or imported by Fuel Facilities is calculated as $A \times B$, where A is the Carbon Content of all fuels and B is the Carbon Price.

The Carbon Content of a Fuel is its mass in metric tonnes multiplied by the CO₂ emissions factor for that Fuel in metric tonnes as set out in column 2 of Schedule 2.

As an example, to calculate the Carbon Tax payable on 10 metric tonnes of motor gasoline (and assuming a carbon price of 25 US Dollars), the following steps should be taken:

- i) To calculate the Carbon Content of the Fuel = 10 (number of metric tonnes) \times 3.070 (CO₂ emissions factor per metric tonne) = 30.7; and
- ii) To determine the Carbon Tax payable on 10 metric tonnes of motor gasoline = 30.7 (the Carbon Content of 10 metric tonnes of motor gasoline) \times 25.00 US Dollars (the Carbon Price) = 767.50 US Dollars.

The Carbon Tax paid by Large Industrial Emitters

The Carbon Tax paid by Large Industrial Emitters is calculated as $A \times B$, where A is Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions, and B is the Carbon Price.

To calculate the Carbon Tax payable on 5 metric tonnes of Industrial Process Carbon Emissions and 5 metric tonnes of methane emissions (and assuming a carbon price of 25 US Dollars), the following steps should be taken:

- i) Convert the Greenhouse Gas methane into Carbon Dioxide Equivalent Emissions = 5 (the methane in metric tonnes) \times 21 (the Carbon Dioxide equivalent conversion coefficient from Schedule 4) = 105 metric tonnes;
- ii) Calculate the value of A (the Industrial Process Carbon Emissions and the Carbon Dioxide Equivalent Emissions) = 5 (the Industrial Process Carbon Emissions) + 105 (the Carbon Dioxide Equivalent Emissions of the methane) = 110; and
- iii) Calculate the Carbon Tax as $A \times B$ = 110 metric tonnes (the Industrial Process Carbon Emissions and

the Carbon Dioxide Equivalent Emissions) * 25 US Dollars (the Carbon Price) = 2,750 US Dollars.

Sections 10 and 11: Carbon Price

Purpose To set out the Carbon Price to be applied in the calculation of the Carbon Tax Liability, and to align the Carbon Price with the rate of inflation applicable in the country and the country's commitments under the Paris Agreement.

Commentary

The Act does not include a Carbon Price as each Commonwealth member country that is considering the introduction of the Carbon Tax should determine its own Carbon Price based on its own economic analysis of the price required to meet its NDC and the likely impact of different carbon prices on economic growth, income inequality and poverty.

The Act does, however, provide for the Carbon Price to increase over time, initially by a nominal amount and then by inflation plus a nominal amount.

The Carbon Price increases over time to provide taxpayers with time to modify their behaviour and reduce emissions. In addition, a Carbon Price that increases over time is consistent with the increasing ambition that will be required to achieve the Paris Agreement's goals.

For further information on carbon pricing, please refer to:

- i) the IMF's carbon price floor, please see: [Proposal for an International Carbon Price Floor Among Large Emitters \(imf.org\)](#); and
- ii) the Carbon Pricing Dashboard created and maintained by the World Bank, please see: [Carbon Pricing Dashboard | Up-to-date overview of carbon pricing initiatives \(worldbank.org\)](#)

Sections 12, 13 and 14: Operator

Purpose To provide a definition of “Operator”, being the legal person against whom the tax is levied, including factors which should be considered when determining if a person is an Operator under the Act.

Commentary

Definition of “Operator”

Under the Act, the Operator (of a Facility) is the taxpayer. This section applies to the Operators of Facilities that are Fuel Facilities and Facilities of Large Industrial Emitters. In most jurisdictions, an Operator is likely to be a business or other legal entity, rather than an individual. Whether a legal person is an Operator within the meaning of the Act will depend on the level of authority that it exercises over a Facility. Legislators and regulators may rely on the factors set out in section 13(1)a–e to determine whether a legal person has sufficient authority over a Facility so as to be an Operator. The factors provided are not exhaustive and it is not necessary for a legal person to have authority over all the factors.

Subject to the jurisdiction, legislators and regulators may wish to amend or add to the list of factors to be considered, in order to harmonise it with existing legislative tests for authority or control, or to reflect circumstances specific to the jurisdiction.

It is possible that more than one legal person will meet the legal test for an Operator. While there will be more than one Operator in the case of some Facilities, it is anticipated that in most joint ventures, one party will have effective authority (or operatorship) by virtue of an agreement between the parties. Where this is the case, it is the Operator who will be liable to the relevant authority for the Carbon Tax, even if there is an agreement between joint venture parties to share the cost.

Multiple “Facilities”

Where an Operator is in control of more than one Facility, the Carbon Tax Liability will be calculated for each Facility. As the Operator is the taxpayer, the tax is payable on emissions from each Facility in operation. Accordingly, an Operator will pay tax across all Facilities, but the tax liability will be calculated separately for each Facility. In practice, whether the tax is paid per Operator (as an aggregate of the tax liabilities for each Facility) or per Facility (where the Operator will pay separately for each Facility) will depend on the preferred practice in the jurisdiction and any existing comparative approaches to business taxation.

Joint and several liability

Where a Facility has more than one Operator, it is suggested that they should be jointly and severally liable to the relevant authority for the Carbon Tax Liability. This means that where one Operator fails to pay, in full or in part, the liability due, the relevant authority may claim the debt from either or both Operators, each having liability for the payment of the Carbon Tax. This section is intended to give tax administrators the best possible chance of recovering unpaid tax liabilities where there is more than one Operator.

Part 4: Operators of Fuel Facilities

Section 15: Taxpayers

Purpose To explain the legal person against whom the Carbon Tax is levied and the way in which the tax is applied where a legal person is in control of multiple facilities.

Commentary

This section brings together the approach to taxation of Fuel Emissions (see section 9) and the meaning of "Operator" (see section 12, 13 and 14) in the context of Fuel Facilities to make clear who is liable for the Carbon Tax and how that liability is calculated.

Sections 16, 17, 18 and 19: Calculation of the Carbon Tax Liability

Purpose To set out the approaches for calculating the Carbon Tax payable by Operators of different Fuel Facilities, based on the different activities carried out at different types of Fuel Facility.

Commentary

Recognising different Business Activities related to different fuels

Due to the range of types of fuels covered by the Act and the different corresponding business activities covered under the Act, it is useful to provide text in the Act that recognises and addresses the different activities carried out. By way of example, the activities carried out by a Facility involved in coal mining are likely to differ substantially to those carried out at a Facility that processes fuels. Further detail is provided in the paragraphs below.

Coal Mining Facilities and Petroleum Field Facilities

Coal Mining Facilities and Petroleum Field Facilities are not liable for the Carbon Tax on fuels that are supplied to a domestic Processing Facility (as the Carbon Content of those fuels will be taxed at the processing stage) or exported. This will account for the vast majority of Oil, Natural Gas and coal mined at these Facilities.

However, Coal Mining Facilities and Petroleum Field Facilities are liable for the Carbon Tax on any fuels supplied directly to Domestic Consumers. This is necessary as Natural Gas and coal are sometimes, albeit rarely, supplied directly to Domestic Consumers without passing through a Processing Facility.

Coal Mining Facilities and Petroleum Field Facilities are taxed on Fuel that they Flare or vent. This is necessary to disincentivise Flaring and venting at these Facilities.

Processing Facilities

Processing Facilities are liable for the Carbon Tax on the Carbon Content of all Fuel that they process, supply to a Domestic Consumer without processing, vent or Flare.

Importers

Importers are liable for the Carbon Tax on the Carbon Content of all Fuel that they import.

Rebate on exports

Importers and Processing Facilities are entitled to a rebate of the Carbon Tax paid on Fuel that is exported.

The design of the Carbon Tax and tax administration

The design of the Carbon Tax on the Carbon Content of fuels provided for in this Act has three favourable characteristics.

First, the Carbon Tax is effectively, due to the rebate for exported fuels, only levied on fuels that are consumed domestically. This is consistent with countries being responsible for reducing their own domestic emissions (and not the carbon embedded in fuels that they export) under the Paris Agreement and their NDC. It is also consistent with maintaining the competitiveness of Fuel exports.

Second, in many countries, the Operators of Processing Facilities and Importers will pay most of the tax. These Operators are normally large, sophisticated taxpayers and there are often relatively few of these taxpayers. For example, in the UK, there are 28.1 million households (who would

not be liable for the Carbon Tax under this Act), approximately 8,000 petrol stations (who would not be liable for the Carbon Tax under this Act) and only 6 refineries (whose Operators would be liable for the Carbon Tax under this Act). Tax liability falling on a few, large and sophisticated taxpayers should make the Carbon Tax relatively simple and cheap to administer.

In addition, in some Small Island Developing States where there are no Coal Mining Facilities, Petroleum Field Facilities or Processing Facilities, the Carbon Tax Liability will fall entirely on one or two large Importers of Fuel.

Third, the Carbon Tax Liability partly falls on fuels that are Flared and methane that is vented. This is important to disincentivise these activities, which can be important sources of emissions in countries with significant upstream petroleum and coal mining industries.

Part 5: Taxing Large Industrial Emitters

Section 20: Taxpayers

Purpose To explain the legal person against whom the Carbon Tax on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions is levied.

Commentary

This section makes it clear that, for Industrial Processes, the taxpayer will be the Large Industrial Emitter (as defined in section 21) and the tax will be levied on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions.

The definition of Carbon Dioxide Equivalent Emissions under this Act includes emissions from all Greenhouse Gases, apart from Carbon Dioxide, measured in Carbon Dioxide equivalent units. The inclusion of Carbon Dioxide Equivalent Emissions is necessary as industrial processes may result in the emission of gases such as methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and nitrogen trifluoride, all of which contribute to global warming.

Section 21: Large Industrial Emitters

Purpose To explain which legal persons are Large Industrial Emitters within the meaning of the Act.

Commentary

Introducing an emissions-based threshold

To focus only on the largest emitters, the Act introduces a threshold level of emissions that a Facility must meet to be considered a Large Industrial Emitter and therefore subject to the Carbon Tax. This threshold includes both the Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions produced. This approach has been taken to simplify the administration of the Act, and to focus on the industries that produce the most emissions.

The threshold amount (in metric tonnes) is to be determined by policy-makers and regulators in each jurisdiction. By including a threshold for application, the Act seeks to ensure that small Facilities are not disproportionately or unfairly impacted by the Carbon Tax.

To ensure the efficacy of the Carbon Tax on Industrial Processes, it is important that the threshold is not set too high.

Legislators and regulators may also consider a revenue-based threshold, either as an alternative to or in addition to an emissions-based threshold.

Change over time

Legislators and regulators may consider including a power in the Act to reduce or amend the threshold amount periodically, to eventually capture a greater percentage of total industrial emissions. Such a power, when coupled with a publicly communicated strategy and plan of action, could create incentives to reduce emissions across all industries, while also creating greater economic certainty for Facilities within the industries targeted by the Act.

Determining the relevant industries

Schedule 5 provides example industries to which this Act may apply.

Sections 22 and 23: Registration

Purpose To set out the requirement for Large Industrial Emitters to register with the relevant authority.

Commentary

Record keeping

Due to the inclusion of a threshold to determine which Operators are Large Industrial Emitters, the Act includes an obligation on Large Industrial Emitters to register with the relevant authority. This requirement is intended to facilitate the effective administration of the Carbon Tax.

Where an Operator ceases to be a Large Industrial Emitter, due to a change in its business or activities, a reduction in its emissions to below the threshold amount, or another reason, it must make an application to deregister.

Similarly, this provision is intended to reduce the administrative burden on the relevant authority, by ensuring that administrative resources are focused on only those Operators that are Large Industrial Emitters subject to the Carbon Tax.

Failure to register

Legislators and regulators should be alive to the risk of Operators, who do meet the emissions threshold to be Large Industrial Emitters, contravening section 22 and not registering.

To mitigate this risk, an additional reporting or registration requirement for Operators within 10 per cent of the threshold might be considered. This is not provided for in the Act.

Multiple facilities

The taxpayer is liable for the Carbon Tax on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions from each Facility for which it is an Operator. For ease

of administration, it is desirable that the Large Industrial Emitter registers each Facility.

Section 24: Tax Base of Large Industrial Emitters

Purpose To make clear who the taxpayer shall be and on what basis the tax liability will be calculated on.

Commentary

This section brings together the definition of Large Industrial Emitter and the approach to taxation for Industrial Processes, which is inclusive of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions. By referring to emissions produced at the Facility, it makes it clear that the tax liability will be calculated on a Facility-by-Facility basis.

Part 6: Reporting and Monitoring of Fuel Emissions

Sections 25 and 26: Fuel Emissions Report and Fuel Emissions Monitoring Plan

Purpose To introduce a periodic reporting and planning obligation on the Operators of Fuel Facilities.

Commentary

Planning ahead

Sections 25 and 26 provide for both a report that looks back at actual emissions in the previous financial period and a plan that looks forward at anticipated emissions in the forthcoming year. It is anticipated that both reports will be prepared and submitted together at the end of the financial period as annexes to the tax return of the Operator.

The requirement to prepare and submit a plan and forecast is intended to have multiple positive effects, including providing a benchmark against which to compare actual emissions in the report, a focus point for Operators as they consider past performance against predicted performance, and an additional way by which Operators can manage and predict a potential tax liability.

Certainty on tax liability

Submitted at the end of the financial period, the Fuel Emissions Report is a core part of the approach taken in the Act to verify emissions and the Carbon Tax Liability for Operators. Ensuring there is certainty is critical for Operators of Fuel Facilities, given the additional financial burden that will be placed

upon Operators by the Carbon Tax. The Fuel Emissions Report provides the initial report on which the liability will be calculated, and upon which further verification will take place as necessary.

Transparency

In addition to certainty, the reporting and planning requirements introduced by these sections seek to enhance transparency. This transparency has a dual function of both (a) mitigating any potential for corruption in the Minister's treatment of reporting requirements, and (b) ensuring that the Carbon Tax paid by the Operator is accurate.

Differences between Fuel Facilities

The Act provides a single standard for Fuel Emissions Reports and Fuel Emissions Monitoring Plans for all Fuel Facilities, without providing different requirements for different types of Fuel Facility. This broad approach is intended to provide a framework for reporting of the Carbon Content of fuels and the Carbon Tax due.

Legislators and regulators may consider different reporting requirements for different types of Facility, either in sections 25 and 26 or in sections 27 and 28 below, which set out the minimum reporting criteria.

Where Operators operate more than one Facility, they must report separately for each Facility. This allows for an easy identification of higher emitting Facilities and incentivises Operators to consider methods of emissions reduction and therefore a reduction in tax liability.

Harmonisation with existing reporting approaches

While the drafters of this Act have taken account of equivalent reporting procedures in several jurisdictions to inform these sections, each jurisdiction will have its own existing reporting systems, structures and practices. This section is intended to serve as a detailed guide for reporting standards against this tax liability, but it is accepted that it may be most effective and efficient when harmonised with existing reporting practices.

In addition, while the reporting requirements may on an initial reading appear onerous, it should be remembered that the Operators of Fuel Facilities (such as Petroleum Field Facilities, Processing Facilities and Importers) are likely to be large, sophisticated taxpayers that are used to accurately recording and reporting on the fuels they mine, process or import.

Sections 27 and 28: Minimum Criteria for the Fuel emissions Monitoring Plan and Fuel emissions Report

Purpose To provide an indication of the information to be included in the Fuel Emissions Monitoring Plan and the Fuel Emissions Report that is clear, simple and exhaustive.

Commentary

World-leading standards

The minimum requirements provided for in the Act are intended to provide a floor or baseline for what should be provided in the plan and in the report. This approach acknowledges the varied nature of Fuel production, processing and importation and ensures that all uses of Fuel are included when calculating a Carbon Tax Liability for each individual Facility.

Harmonisation

Legislators and regulators should seek to harmonise the format and approach to reporting with existing or equivalent approaches in the jurisdiction. It is likely that many Fuel Facilities will already be reporting much of the information required in the Fuel Emissions Monitoring Plan and Fuel Emissions Report to regulators, and this may

present opportunities for these reports to be simplified and to build on existing reporting systems.

Comparative metrics

The Act includes reporting obligations which are both forward and backwards looking. This allows Operators to compare projected and actual Fuel extraction, processing and importation and account for the cause(s) of any variations.

This section also allows legislators to go beyond the provided sections by including a provision for further Regulations to stipulate further requirements that may be necessary in the future. It is also recognised that some jurisdictions may wish to include less detail on the Fuel Emission Monitoring Plan and Fuel Emissions Report in their Act and to instead provide for these details under Regulations.

Section 29: Minimum Criteria for the Fuel Emissions Monitoring Plan and Fuel Emissions Report

Purpose To provide the relevant authority with the power to reject Fuel Emissions Monitoring Plans and Fuel Emissions Reports that are deemed to not meet the exhaustive requirements that are set out in sections 27 and 28.

Commentary

To manage the administrative burden and the risk of underreporting, the Act includes a power for the relevant authority to reject any report or plan which does not meet the minimum requirements. It also provides an example period for resubmission, which is consistent with global approaches to reporting.

Legislators and regulators may consider including a different period for resubmission, or a different process for remedying reports or plans submitted with insufficient information. The approach chosen for each jurisdiction should seek to mirror or complement existing reporting practices to reduce administrative burden.

Sections 30 and 31: Power to Request Further Information and Audit

Purpose To provide the relevant authority with the power to request further, or verify, information following an Operator's submission of a Fuel Emissions Report. It also provides for a power to audit the Fuel Emission Report.

Commentary

Accurate and controlled

Section 30 provides an additional mechanism for tax administrators to ensure the accuracy of reporting by Operators of Fuel Facilities and guard against corruption, by enabling a route for interrogating anything included in the report which appears unusual, unsubstantiated, or incorrect. In turn, this power to control and test the reporting will have the effect of strengthening the reliability of the data on which further policy decisions may be taken.

reasonable, in comparison to a small clarification, for which 14 working days may be reasonable.

Other considerations on setting this period may include the method of communication from the relevant authority. The postal system may require longer timeframes.

Verification by experts

The power to audit a Fuel Emissions Report provides a route for an external third-party review of the information contained therein. Considerations for provisions relating to auditors are set out in the commentary to section 32 below.

Reasonable time

The power introduced by section 30 should be subject to constraints to ensure that it does not cause undue disruption. On this basis, the Act provides for a "reasonable time period" for response to a request for further information. What is a reasonable time will depend on the jurisdiction and any relevant legislation or legal precedent; however, it is envisaged that the reasonable time will be reasonable relative to the request.

If the request involves a significant further amount of information, then a period of one month or longer may be

Sections 32 and 33: Appointment of a Recognised Emissions Auditor – the Authority's Obligations

Purpose To set out the obligations on the relevant authority when appointing an auditor for the audit of an Operator's Fuel Emissions Report.

Commentary

Transparency and certainty

These sections provide for the appointment of a Recognised Emissions Auditor and for the obligations on the relevant authority when appointing such an auditor. The key considerations underpinning this section are transparency and fair process.

The requirement to keep the Operator informed at various points is highly desirable as it mitigates the risk of the Operator being unprepared to share information with the auditor or not being aware of the process taking place.

Legislators and regulators considering amendments to this provision should strive for a fair process which promotes good record keeping and transparency.

An appropriate auditor

Please see the commentary below for discussion on an appropriate auditor.

Section 34: Appointment of a Recognised Emissions Auditor – the Operator’s Obligations

Purpose To set out the obligations of the Operator when an auditor is appointed by the relevant authority in relation to the Operator’s Fuel Emissions Report.

Commentary

Timeframe for compliance

Section 34 does not provide an example timeframe for provision of information to the auditor, other than it should be several days. When considering an appropriate time period, legislators and regulators should be cognisant of creating a reasonable obligation on the Operator, which is enforceable under local law and encourages compliance.

Access to the Facility

The auditor may attend the Facility to complete any necessary inspections or checks in the audit process.

Legislators and regulators may wish to broaden this section to ensure not only that the Operator allows the auditor access, but that it also allows the auditor access to any documents or information contained onsite at the Facility or allows the auditor to interview staff onsite. To do so would increase the powers of the auditor and should be added subject to the auditor’s mandate (to be defined in Regulations).

Incentivising proper reporting

The effect of requiring the Operator to comply with the auditor’s requests is to create an enforceable obligation by which the accuracy of reporting may be checked and verified. However, to minimise the risk of abuse or misuse of the power, it is important that the auditor does not have unchecked power. The powers of the auditor (and the requirements of the Operator to cooperate with said auditor) should not be presented as open-ended.

Sections 35, 36 and 37: Rectification of Inaccuracies and Incomplete Information

Purpose To create an obligation on either the relevant authority or the Operator to notify and correct any errors, misinformation or inaccuracies made in a Fuel Emissions Report or a Fuel Emissions Monitoring Plan.

Commentary

Rectification

It is possible that, particularly where carbon pricing is a new mechanism in the jurisdiction, there may be some errors in the calculations or other elements of reporting. This Part of the Act provides the obligation and a clear process for both the Operator and the relevant authority to take steps to rectify any errors made in a report or plan where those are identified by the Operator or the relevant authority.

While the intention of these sections is to share the burden of identifying errors, no penalty is imposed on Operators who submit incorrect or erroneous information provided that the error is corrected by the Operator within the time period specified by the relevant authority.

Applicable period

Legislators and regulators will need to ensure that the time periods specified by the relevant authority are reasonable and that it is possible for the Operator to comply with them. These sections do not specify a period for rectification of errors, as there is likely to be great variation in the types of errors identified. However, it is strongly suggested that periods provided by the relevant authority take into account:

- i) the amount of information to be rectified;
- ii) the skill required to complete the rectification, including whether it will require the input of a specialist or someone possessing particular knowledge and skill;

- iii) the method of notification and resubmission (for example, postal, online portal, email); and
- iv) any other factors that may have an effect on the Operator's ability to respond.

Taking such factors into account is likely to promote the proper rectification of errors and compliance with the request.

No limitation

There is no time or limitation period within which an error must be rectified or a request for rectification must be made. The effect of this is that the relevant authority or the Operator may identify an error many years after having paid the Carbon Tax to which the error relates. In that scenario, it is possible that the relevant authority would have to refund tax paid in a previous fiscal year or the Operator would have to make an additional payment. However, if there is an already existing approach under existing national tax law to rectifying errors in tax returns, which has been working effectively for the jurisdiction, the jurisdiction may consider adapting that approach to the case of Carbon Tax.

Legislators and regulators may wish to introduce a limitation on the power to rectify in order to increase certainty of tax revenue year on year and to harmonise the procedure with existing approaches under national law.

Part 7: Reporting and Monitoring of Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions

Section 38: Submission of Carbon Plans and Carbon Reports

Purpose To introduce the obligation on Large Industrial Emitters to produce annual Carbon Plans and Carbon Reports.

Commentary

The obligations imposed by this section and those subsequent are equivalent to those provided for earlier in the Act for Operators of Fuel Facilities.

Sections 39, 40 and 41: Carbon Plan and Carbon Report

Purpose To set out in more detail the obligation on Large Industrial Emitters to submit a Carbon Plan and Carbon Report to the relevant authority, including the obligation to submit an early-operation Carbon Plan for new Large Industrial Emitters and a final Carbon Report when ceasing to be a Large Industrial Emitter.

Commentary

Threshold for reporting

Consistent with the emissions-based threshold for categorisation of Large Industrial Emitters stipulated at section 21, the Act only imposes planning and reporting obligations on those entities that are categorised as Large Industrial Emitters. Accordingly, and unlike the equivalent processes for Operators of Fuel Facilities, plans and reports submitted by Large Industrial Emitters will not account for all emissions produced from Industrial Processes.

With a view to understanding a greater portion of emissions from Industrial Processes, legislators and regulators may consider introducing a lower level of reporting requirement for Operators of Facilities carrying out Industrial Processes that are within 10 per cent of the threshold for Large Industrial Emitters.

Early-operation Carbon Plan and final Carbon Report

As it is possible for an Operator to become a Large Industrial Emitter within a fiscal period, it is suggested that an obligation to submit an early-operation Carbon Plan is imposed, which will take the same form as a Carbon Plan (minimum requirements for which are provided in section 42). The intention is that this will make subsequent reporting easier and more beneficial for new Large Industrial Emitters. Where an Operator ceases to be a Large Industrial Emitter by reason of its emissions falling below the threshold set out in section 21 of the

Act, it shall submit a final Carbon Report. The effect of this is to show that its emissions have fallen below the relevant threshold and to identify the reasons for the reduction in emissions (whether due to operational change or other factors).

Tax administration

The Act provides that the Carbon Report is submitted as an annex to the tax return of the Large Industrial Emitter. Legislators and regulators could also consider a similar provision for the Carbon Plan. Legislators and regulators should select a timeframe for submission that is in keeping with existing taxation and financial reporting procedures in the jurisdiction.

Driving emissions reduction

The requirement to submit both a Carbon Plan and Carbon Report, and the relationship between the two documents, provides an opportunity for both the taxpayer and relevant authority to easily identify successful actions to reduce emissions.

Sections 42 and 43: Minimum Criteria for the Carbon Plan and Carbon Report

Purpose To provide the minimum requirements for the preparation, format and content of the Carbon Plan and Carbon Report.

Commentary

World-leading standards

The minimum requirements provided for in the Act are intended to provide a floor or baseline for what should be provided in the plan and in the report. Legislators and regulators may wish to enhance these minimum requirements, with reference to the environmental challenges in the jurisdiction, the commitments made in the country's NDC, and international reporting commitments.

Beyond carbon dioxide emissions

As noted above, the Industrial Processes carried out by Large Industrial Emitters are likely to produce Carbon Dioxide emissions and emissions from other Greenhouse Gases. This is accounted for in both the Carbon Plan and Carbon Report, within which Large Industrial Emitters will report against Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions. This will enable both taxpayers and administrators to understand the different types of Greenhouse Gas emissions arising in different Industrial Processes and to monitor the extent to and ways in which these are reduced over time.

Monitoring trends and activities

By employing broad wording at sections 42 and 43, the Act seeks to capture all possible activities carried out by Large Industrial Emitters and the trends that they may foresee relating to operational practice, supply chains, raw materials or any other factors that may impact emissions from industrial practices.

Different activities and trends will apply to different Industrial Processes and legislators may wish to prepare different minimum reporting criteria for each Industrial Process. An additional benefit of including a requirement to report on "predicted trends" is that Carbon Plans may be a useful horizon-scanning tool for the relevant authority.

Example Carbon Report and Carbon Plan – Schedule 6

An example Carbon Report and Carbon Plan, including key headings and a suggested format, has been prepared and appended to the Act at Schedule 6. This should be used as a guide to prepare equivalent pro forma reports for use by Large Industrial Emitters in the jurisdiction.

Harmonisation

Changes to the minimum criteria, if any, made by legislators and regulators should seek to harmonise the format and approach to reporting with existing or equivalent approaches in the jurisdiction. It is possible that work will have been done within certain jurisdictions to monitor the emissions of Large Industrial Emitters or certain industrial activities, and this should be taken into account.

Comparative metrics

The Act includes reporting obligations that are both forward and backwards looking. This allows Large Industrial Emitters to compare actual Fuel use against projected Fuel use and account for the cause(s) of any variations.

From an administrative perspective, the provisions at section 43 (1) (a)–(f) may yield information that can

inform public policy and enable an assessment of how effective the Act is in driving decarbonisation.

Section 44: Power to Review and Audit Carbon Plan and Carbon Report

Purpose To give power to the relevant authority to review all Carbon Plans and Carbon Reports, request further information and audit the Carbon Plan or Carbon Report, including setting out the process for appointment of a Recognised Emissions Auditor.

Commentary

Accurate and controlled

This provision provides an additional mechanism for tax administrators to ensure the accuracy of reporting by Large Industrial Emitters and guard against corruption, by enabling a route for interrogating anything included in the report that appears unusual, unsubstantiated or incorrect. In turn, this power to control and test the reporting will have the effect of strengthening the reliability of the data on which further policy decisions may be taken.

Verification by experts

The power to audit a Carbon Plan or Carbon Report provides a route for an external third-party review of the information contained therein.

Reasonable time period

The power introduced by section 44 should be subject to constraints to ensure that it is not abused or misused by the relevant authority. On this basis, the Act requires the Minister of [X] to provide a “reasonable time period” for the Large Industrial Emitter to respond to a request for further information.

Please see the commentary on sections 30 and 31 as to what may constitute a reasonable period.

Section 45: Obligations when Appointing a Recognised Emissions Auditor

Purpose To stipulate the obligations of the relevant authority and the Large Industrial Emitter when a Recognised Emissions Auditor is appointed to audit a Carbon Plan or Carbon Report.

Commentary

Transparency and certainty

This section provides the obligations on the relevant authority when appointing an auditor. The key considerations underpinning this section are transparency and a fair process. The requirement to keep the Large Industrial Emitter informed at various points is highly desirable as it mitigates the risk of the Large Industrial Emitter being unprepared to share information with the auditor or not being aware of the process taking place. Legislators and regulators considering amendments to this provision should strive for a fair process that promotes good record keeping and transparency.

Period for compliance

Section 45(3) does not provide an example period for provision of information to the auditor, other than that it should be a number of days. When considering an appropriate time period, legislators and regulators should be cognisant of creating a reasonable obligation on the Large Industrial Emitter, which is enforceable under local law and encourages compliance.

Access to the facility

The auditor may attend the Facility to complete any necessary inspections or checks in the audit process. Legislators and regulators may wish to broaden this section to ensure not only that the Large Industrial Emitter allows the auditor access, but that it also allows the auditor access to any documents or information contained onsite at the Facility or allows the auditor to interview staff onsite. To

do so would increase the powers of the auditor and should be added subject to the auditor's mandate (to be defined in Regulations).

Incentivising proper reporting

The effect of requiring the Large Industrial Emitter to comply with the auditor's requests is to create an enforceable obligation by which the accuracy of reporting may be checked and verified. However, it is important that the auditor does not have unchecked power, as unchecked power would create risk of abuse or misuse of that power. The powers of the auditor (and the requirements of the Large Industrial Emitter to cooperate with auditor) should not be presented as open-ended.

Sections 46 and 47: Rectification of Inaccuracies and Incomplete Information

Purpose To create an obligation on either the relevant authority or the Operator to notify and correct any errors, misinformation or inaccuracies made in a Carbon Plan or Carbon Report.

Commentary

Rectification

It is accepted that, particularly where carbon pricing is a new mechanism in the jurisdiction, there are likely to be some errors in the calculations or other elements of reporting. This Part of the Act, and its equivalent for Operators of Fuel Facilities, provides the obligation and a clear process for both the Large Industrial Emitter and the relevant authority to take steps to rectify any errors made in a report or plan where those are identified by the Large Industrial Emitter or the relevant authority. While the intention of these sections is to share the burden of identifying errors, it is not proposed that any penalty is imposed on Large Industrial Emitters who submit incorrect or erroneous information, provided that it is (i) notified when identified and (ii) subsequently corrected.

Applicable time period

Legislators and regulators will need to ensure that the time periods specified by the relevant authority are reasonable and it is possible for Large Industrial Emitters to comply with them. Factors that should be considered when deciding on time periods are set out in the commentary for sections 34, 35 and 36.

Part 8: Auditors and Record Keeping

Sections 48 and 49: Becoming a Recognised Emissions Auditor

Purpose To set out the way in which a legal person may become a Recognised Emissions Auditor, to promote certainty in the identity of Recognised Emissions Auditors and to set minimum standards for the practice of emissions auditing.

Commentary

Prevention of regulatory capture

The role of the Recognised Emissions Auditor is to provide an independent, expert body for verification of emissions accounting and reporting carried out by Operators of Fuel Facilities and Large Industrial Emitters. The purpose of having a third-party auditor is ensure best practice and learnings, as well as minimising the risk of taxpayers under the Act controlling the methods and approaches to emissions reporting.

Minimum standards

Section 49 provides for Regulations that will set out the criteria that Recognised Emissions Auditors should comply with. The accompanying Regulation should set out rigorous and robust criteria and standards by and to which Recognised Emissions Auditors must practice and adhere.

Sections 50 and 51: List of Recognised Emissions Auditors

Purpose To ensure that there is an easily accessible list of Recognised Emissions Auditors which are credible and properly accredited within the meaning of the Act and accompanying Regulation.

Commentary

Access

A single list of Recognised Emissions Auditors, which is accessible and free, will promote transparency and provide assurance to taxpayers that such auditors are well-qualified and capable of undertaking emissions audits.

Updating the list

The Act as drafted provides for updates on an annual basis. However, it is strongly suggested that an online database of Recognised Emissions Auditors is maintained and updated automatically at the point of accreditation. Legislators and regulators may wish to keep hard copy lists, but it should be noted to interested parties that these lists may not be in date or reflect an accurate database of Recognised Emissions Auditors.

Managing corruption risk

Recognised Emissions Auditors play an important role in guaranteeing the credibility of the Act. This may present a lucrative opportunity for legal persons to misrepresent themselves as being Recognised Emissions Auditors. The existence of an up-to-date list will mitigate this risk.

Sections 52, 53, 54, 55 and 56: Obligation to Keep Records

Purpose To ensure that accurate and complete records are kept of all documents, information and reports submitted in accordance with the Act by taxpayers, Recognised Emissions Auditors and the relevant authority, and properly maintained.

Commentary

Transparency and credibility

Robust and well-maintained record-keeping practices are essential to the proper functioning of tax administration and enforcement and are therefore key to the functioning of the Act. Recognised Emissions Auditors and taxpayers are obligated to keep records to ensure compliance, ease of audit and to promote internal analysis of the documents submitted. The relevant authority is obligated to keep records to ensure good administration, prevention of corruption and public access to information if required. These provisions foster informational symmetry, openness and ensure that risks of corruption are minimised.

Measuring progress

By placing a positive obligation on all interested parties to maintain records, interested parties will be encouraged to consider the progress that they are making in relation to reducing their overall emissions.

Data protection and privacy

Where a taxpayer or Recognised Emissions Auditor ceases to be an interested party under the Act, it is incumbent on the relevant authority to ensure that their data is held in accordance with national and regional law, and only for purposes that are strictly necessary.

Part 9: Rebates and Exemptions

Sections 57 and 58: Carbon Tax Rebate on Exported Fuels

Purpose To stipulate the circumstances under which Operators of Fuel Facilities may apply for a rebate in respect of exported fuels, evidence required to support a claim and the time period for doing so.

Commentary

Avoiding double taxation and conformity with WTO

The purpose of the Act is to reduce domestic Greenhouse Gas emissions and contribute to the achievement of the country's NDC and commitments under the Paris Agreement.

A rebate on the Carbon Tax paid on exported fuels is required for two main reasons.

First, the Act envisages jurisdictions across the world implementing comparable systems for carbon pricing and taxation. In the absence of a rebate for exported fuels, there is the likelihood of fuels that are exported being taxed both at source (prior to export) and at destination (post export). A real risk of double taxation may create economic uncertainty for Operators of Fuel Facilities.

Second, in the absence of a rebate, exports of fuels may become uncompetitive in international markets, leading to lower exports of fuels and lower foreign exchange earnings.

The provision of a rebate for exported Fuel is consistent with WTO rules. Specifically, article 1 of the Agreement on Subsidies and Countervailing Measures defines subsidies and includes a footnote that clarifies that a rebate does not constitute a subsidy and is, therefore, compatible with WTO rules.

Time for claim

The Act has provided a suggested period of four (4) years from the date of the Carbon Tax being paid within which an Operator must make a claim for rebate if they are eligible to do so. Legislators and regulators are advised to carefully consider this period and what is most appropriate to mitigate the risk of Carbon Tax fraud. Legislators should also consider aligning this with existing claims processes under other tax legislation.

An alternative: suspension

While the Act uses a rebate model for exported fuels, it is acknowledged that alternative approaches may reach the same or a similar objective. These include tax exemptions, credits, reliefs or suspension.

By way of example, under a suspension model, the tax is calculated at the time it would otherwise be due (and may be included in a box in the tax return), but payment is held over or deferred for a period during which time the Fuel would need to be exported. If it is exported, the tax will be cancelled. If it is not exported in this time, the tax will fall due at the end of the suspension period. Where a suspension model is used, legislators and regulators must consider what evidence of intended export an Operator should provide at the time the Carbon Tax is suspended and what they then must provide to satisfy the tax authority that the Fuel has actually been exported (and therefore no tax is due).

Section 59: Rebate for Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions from Trade Exposed Sectors

Purpose To stipulate the circumstances under which a relevant authority may designate a trade exposed sector under the Act, and the eligibility of taxpayers to apply for a rebate for Carbon Tax paid on Industrial Process Carbon Emissions and Carbon Dioxide Equivalent Emissions from trade exposed sectors.

Commentary

Trade exposed sectors

The Act acknowledges that certain national economies may be heavily dependent on singular sectors, industries or industrial practices. In the absence of a mechanism to provide relief to such sectors, there may be a risk of the imposition of the Carbon Tax having a disproportionately negative impact on those sectors, the livelihoods of those working in such sectors, and the national economy. The Minister needs to take a rigorous approach to designating trade exposed sectors, considering the facts set out in section 59 so as to maintain the effectiveness of the Act. In general, we advise that as few sectors as possible are designated as trade exposed sectors and in many jurisdictions, it may well be the case that no sector qualifies as a trade exposed sector under the provisions of the Act. In addition, designating a sector a trade exposed sector may mean that exports from that sector become liable to be charged under the EU CBAM.

Rebate

A registered person in a trade exposed sector may claim a rebate. The amount of this rebate is equal to the Carbon Price multiplied by the Emissions Intensity Benchmark for the good multiplied by the number of units of that good that have been produced. The Emissions Intensity Benchmark is the average amount of Industrial Process

Carbon Emissions and Carbon Dioxide Equivalent Emissions emitted during the production of that good.

The design of this rebate provides that a registered person in a trade exposed sector that emits more GHG per unit of production than the average will receive less from the rebate than they pay in Carbon Tax. In contrast, a registered person in a trade exposed sector that emits less GHG per unit of production than the average will receive more from the rebate than they pay in Carbon Tax. The Carbon Tax and rebate provided for under the Act, therefore, provide an incentive for registered persons in trade exposed sectors to reduce their emissions. As registered persons reduce their emissions average emissions will fall and the Government should update and revise the Emissions Intensity Benchmarks downwards. This process should continue and should lead to continuously lower GHG emissions.

Certainty

Legislators and regulators must maintain accurate records, and make the same available, of trade exposed sectors once they are designated. This will promote the proper administration and use of the Act, as well as create certainty for potential investors and creditors operating in those sectors.

An alternative: exemption

Legislators and regulators may wish to consider an alternative form of tax relief, such as an exemption for trade exposed sectors or the availability of a relief or credit for taxpayers in those sectors, which would reduce overall tax liability. Conditions that enable taxpayers to qualify for the exemption, credit or relief should be tightly drafted to ensure that only those taxpayers within trade exposed sectors are captured.

Sections 60 and 61: Ringfencing of Revenue of the Carbon Tax

Purpose To create an obligation on the relevant authority to ringfence revenue generated from the Carbon Tax and stipulate how such revenue shall be utilised by the relevant authority to further the just transition to an inclusive, low-carbon economy.

Commentary

Ringfencing of revenues from the Carbon Tax

The imposition of a Carbon Tax is likely to increase the cost of fuel and carbon-intensive products for consumers.

One aim of section 60 is to protect consumers who will be disproportionately impacted by any increased cost and, in turn, ensure that the Act promotes just and equitable routes to decarbonisation. A further aim of section 60 is to finance investment in renewable and green technologies and sources of energy. Such investments are likely to be consistent with most countries' NDCs.

In addition, international experience demonstrates that clearly highlighting the programmes financed by the revenue from the Carbon Tax can increase public support for the tax.

Section 61 aligns the approval of programmes financed by the Carbon Tax with existing government budgeting and reporting processes.

It is, however, recognised that in some jurisdictions, legislators and regulators may choose to not ringfence revenue from the Carbon Tax and instead use Carbon Tax revenues to finance a broad range of public policies, reduce other taxes or reduce debt.

Part 10: Payments to Carbon Capture, Usage and Storage Facilities

Section 62: Operators of CCS Facilities and CCU Facilities

Purpose To make clear the operations and types of Facilities to which this Part of the Act, concerning payments to Operators of CCS and CCU Facilities, shall apply.

Commentary

Encouraging low-carbon innovation

The intention of this Part of the Act is to recognise and encourage innovative technologies that reduce the atmospheric concentration of Greenhouse Gas emissions, with a focus on carbon capture and storage or usage. However, legislators and regulators must be alive to the risks of emerging technologies, including the extent to which these technologies may offer a permanent and safe removal of Carbon Dioxide. To take account of these risks, it is advised that the approach to identifying and registering CCS and CCU Facilities in the Act is robust and that the relevant authority has the power to stop funding at any point.

Focus on emissions reductions and complementary policy

While CCS and CCU Facilities represent a method for Carbon Dioxide removal from the atmosphere, they should not in any circumstances be treated as an alternative approach to the actual reduction of Greenhouse Gas emissions through changes in behaviour, industrial

processes, and reduction of fuels burned or emissions produced. Therefore, should legislators and regulators choose to include payments to CCS and CCU Facilities, this should be done as part of a comprehensive policy framework and Carbon Tax system that promote behavioural change across all sectors and legal persons.

In-jurisdiction

This Part is only applicable to Facilities operating within the jurisdiction. While it is difficult to identify which emissions are captured and stored by CCS or CCU technologies, and whether those emissions originated within the jurisdiction, for the purpose of the Act, it is the domiciled location of the Facility that will determine whether it is an eligible CCS or CCU Facility.

Sections 63 and 64: Criteria for CCS and CCU Facilities

Purpose To introduce robust criteria upon which a Facility may be a CCS or CCU Facility and upon which the Operator of such a Facility may register as a CCS or CCU Operator with the relevant authority.

Sufficiently robust criteria

As noted in earlier comments, the Act must recognise and take steps to mitigate the potential risk of unsafe, unverified or ineffective operations being eligible for support. This section seeks to outline the minimum level of criteria that a legislator or regulator should implement to manage this risk. Any amendments should be to strengthen the criteria rather than to weaken them.

Role of Regulation

This section refers to a Regulation governing CCS and CCU Facilities, which is not drafted. However, it is intended that any country seeking to implement this Act, or a version of it, will prepare complementary Regulations, which will provide additional detailed requirements and will complement the effective implementation of the Act. In this instance, this Regulation is likely to address additional criteria to being classified as a CCS or CCU Facility or Operator, the rules on permitting for CCS or CCU Facilities, additional rights of report, audit and inspection (beyond those provided for in the sections below), and any other details that the regulator considers necessary to ensure the proper operation of this Part of the Act. Regulation, amendments to which may not be subject to the same processes for amendment as legislation, is likely to be more easily updated to reflect developments of technology and science that inform the approach to CCS and CCU operations.

Monitoring and record keeping

Section 64 allows Operators of qualifying CCS and CCU Facilities to register as a CCS or CCU Operator. This is not framed as a compulsory obligation in the Act, as the purpose of registration is to render an Operator eligible for a CCUS Development Payment. However, legislators and regulators must consider how they will monitor such Facilities that do not apply for any payment under the Act. It may be practicable to make registration either (i) compulsory and introduce a threshold for eligibility of CCUS Development Payments, or (ii) for registration under the Act to be additional to a compulsory registration obligation under a Regulation or other legislation.

Section 65: Application for Registration of a CCS or CCU Operator

Purpose To set out the minimum requirements for the contents of an application to the relevant authority to be registered as a CCS or CCU Operator.

Requirement for audit

To address any concerns regarding the safety of a Facility, its efficacy, or its compliance with any local or regional rules applicable, an Operator should not be registered as a CCS or CCU Operator without an audit having been carried of the Facility or Facilities in question.

Legislators and regulators may wish to strengthen this provision by adding a minimum time before the application for registration within which the audit must have been completed or a minimum level of audit (or criteria for audit) that must be completed.

Who is eligible to be appointed as a CCS or CCU auditor, and the requirements for becoming one, should be addressed in the accompanying Regulation.

Additional information

As with many of the provisions in this Part of the Act, this section represents a minimum standard. Either in the Act itself or in the accompanying Regulations, legislators and regulators should seek to make the application process as rigorous as possible from the outset so as to limit the risk of fraud, deception or abuse of the opportunity.

Section 66: Obligations of a Registered CCS or CCU Operator

Purpose To set out the minimum obligations on registered CCS or CCU Operators.

Commentary

Reporting and planning

Mirroring the reporting and planning requirements imposed on emitters, CCS and CCU Operators are obligated to report on their activities for the preceding fiscal period and provide forward-looking plans for the upcoming fiscal period. The intention behind this is threefold: (i) to ensure consistent reporting and monitoring of CCS and CCU operations; (ii) to provide the State with some degree of certainty over the level of emissions for the previous year and predicted emissions; and (iii) to provide that same level of certainty to potential investors in emerging technologies to capture and store Carbon Dioxide. The timing for submission of reports and plans should be harmonised, where possible, with existing reporting requirements.

Minimum standards

Either in the Act or in the accompanying Regulations, legislators and regulators should take steps to enhance and strengthen reporting and monitoring obligations on Operators of CCS and CCU Facilities, beyond the minimum standards provided for in this section.

By way of example, legislators and regulators may consider the introduction of a requirement to audit a Facility each year and include the results of such an audit in reporting.

Sections 67 and 68: Submission of a Carbon Storage Report and Carbon Storage Plan

Purpose To identify the minimum criteria for the preparation, content and submission of Carbon Storage Reports and Carbon Storage Plans, to be submitted by a CCS Operator in accordance with this Part of the Act.

Commentary

Managing the risk of fraud and corruption

The effect of strong and frequent reporting obligations not only provides the government with data that can be analysed and synthesised, but it also represents a not insignificant administrative burden on the Operator of a Facility, which may deter fraudulent or deceptive activity. Consistent ineffective reporting should be monitored and addressed to further manage this risk.

Building credibility, sound methodologies and certainty

The combination of a forward-looking and backward-looking approach to planning and reporting is designed to assist taxpayers and tax administrators alike in the development of sound methodologies for measuring and reducing atmospheric concentrations of Greenhouse Gas emissions. The opportunity to specify additional planning and reporting criteria in the Regulation allows regulators to react to scientific developments and introduce or amend criteria that enhance and strengthen reporting, measuring and efforts to reduce emissions.

Promoting safety

Safety of operations is a core concern in this Part of the Act, and that is reflected in the reporting and planning obligations. Additional criteria relating to safety may be added either in the Act or in the accompanying Regulation.

Sections 69 and 70: Submission of a Carbon Usage Report and Carbon Usage Plan

Purpose To identify the minimum criteria for the preparation, content and submission of Carbon Usage Reports and Carbon Usage Plans, to be submitted by a CCU Operator in accordance with this Part of the Act.

Commentary

The provisions of sections 69 and 70 broadly reflect those for Carbon Storage Reports and Carbon Storage Plans; however, they include wording specific to the use of Carbon Dioxide in addition to the storage of it. Legislators and regulators may wish to add further requirements for detail on the precise activities in which captured Carbon Dioxide is used and the emissions associated with these activities.

Section 71: Applications for CCUS Development Payments

Purpose To outline the availability of CCUS Development Payments for which registered CCS and CCU Operators may be eligible, the requirements for applying for CCUS Development Payments, and the powers of the relevant authority in relation to CCUS Development Payments.

Commentary

Exclusion of large industrial emitters

Section 71(1) is clear that CCS or CCU Operators that are also Large Industrial Emitters are not eligible to apply for CCUS Development Payments. This is drafted to guard against a situation where a Large Industrial Emitter, within the meaning of the Act, is also a CCS or CCU Facility and could therefore pay the Carbon Tax on its net emissions and claim the CCUS Development Payment on its gross storage of Carbon Dioxide.

While this would result in a reduction of Greenhouse Gas emissions in the jurisdiction, it would represent a misuse of the provisions in the Act (for financial gain of the Operator) and would not incentivise or drive any long-term behavioural or operational change, which is essential to the transition to a low-carbon future.

Legislators and regulators should prioritise closing gaps such as this to ensure that the principle aim of the Act, which is to accelerate a low-carbon transition in a way that is socially just and sustainable, is honoured and protected.

Strict criteria

An additional method for the prevention of fraud, misuse or otherwise unjust use of this section, is the imposition of strict criteria to be satisfied before a payment is approved and processed. The criteria which are set out in the Act should be supplemented and built upon by accompanying Regulation.

Discretionary power

As carbon capture and storage (or usage) represents an emerging technology, of which many questions remain unanswered, the Act includes in section 71(6) a power of relevant authority to review the availability of the CCUS Development Payment in accordance with section 71(3).

It is acknowledged that this may contribute to a level of uncertainty for the Operators and developers of, and investors in, CCS and CCU Facilities, but this is managed by the clear timescale for review included in the Act.

Section 72: Calculation of a CCUS Development Payment

Purpose To provide the calculation by which the CCUS Development Payment shall be calculated.

Commentary

Like for like

The inclusion of the CCUS Development Payment is predicated on the idea that removal or sequestration of Carbon Dioxide should be rewarded in the same way that the emission of Carbon Dioxide creates an additional tax liability. With this in mind, CCUS Development Payments should be calculated using the same Carbon Price as is used for the calculation of the tax liability, although legislators and regulators may choose to use less than 100 per cent of the Carbon Price, to take account of the fact that use of carbon capture technology is not a replacement for action to transition to a low-carbon economy.

Payments from ringfenced revenue

As noted above, CCUS Development Payments are intended to be financed from the revenue generated by the Carbon Tax. It is envisaged that the cost of CCUS Development Payments will account for a small proportion of total ringfenced revenue. However, legislators and regulators should monitor this and may consider using a reduced percentage of the Carbon Price for CCUS Development Payments.

Section 73: Register of Operators of CCS Facilities and CCU Facilities

Purpose To introduce an obligation on the relevant authority to keep and maintain a register of CCS and CCU Operators and the documentation which should be made available.

Commentary

Transparency and access to information

The relevant authority must keep and maintain good records pertaining to all elements of the Act, including this Part. Failure to do so would represent a failure of the Act, as it would demonstrate that the data created through the Act were not properly used, analysed and synthesised to accelerate emissions reduction. This section requires the register to be publicly available, as it is in the public interest to share this information. It is noted that some legislators or regulators may prefer for this information to be subject to an access request (in which case this section should be amended to reflect that). In any event, it is highly desirable that the public is able to access this information, concerning the revenue from taxation, in a way that is fair, timely, free and accessible.

Part 11: Carbon Tax Monitoring, Stakeholder Engagement and Intra-Government Coordination

Section 74: Carbon Tax Impact Report

Purpose To impose an obligation on the relevant authority to prepare and present an annual report regarding the revenue generated by the Carbon Tax and its use, and the impact of the Carbon Tax on the reduction of emissions.

Commentary

Promoting transparency

The amount of revenue produced from the Carbon Tax and the way in which that revenue is spent is a matter of public interest. Additionally, making these figures publicly available, together with details on the impact of any work carried out using the revenue of the Carbon Tax, promotes executive transparency and reduces the risk of political corruption and misuse of public funds.

A point for reflection

The annual production of a public-facing Carbon Tax Impact Report is likely to present a significant administrative burden on those preparing it. As a result, the Act proposes that such a report is prepared on a three-year cycle. As NDCs are submitted every five years, the production of the Carbon Tax Impact Report every three years provides States with an opportunity to identify gaps, inefficiencies and emerging areas of need, which they may be able to begin work on and subsequently take account of in the preparation of NDCs.

Section 75: Carbon Tax Stakeholders Discussion Group

Purpose To establish a group composed of representatives from communities and groups impacted by the imposition of a Carbon Tax, and to put in place rules for the engagement of that group on issues relating to the Carbon Tax.

Commentary

Facilitator

The Act presumes that the relevant authority will be the facilitator for the Carbon Tax Stakeholders Discussion Group; however, legislators and regulators may consider that the facilitation of the Carbon Tax Stakeholders Discussion Group is done by an alternative public authority or a third party. If the Carbon Tax Stakeholders Discussion Group is to be facilitated by a third party, this must be reflected in the Act and the obligations on the relevant authority, including how they will meet with the Carbon Tax Stakeholders Discussion Group, will need to be enhanced to reflect the involvement of an additional body.

Plurality of voices

There are potential negative social and economic impacts that can flow from the imposition of a tax on carbon. To help mitigate these impacts, manage inequality and promote procedural and social justice, the Act establishes a diverse group of interested and concerned representatives and creates a mechanism for regular and meaningful participation in decisions which affect them. The role of the Carbon Tax Stakeholders Discussion Group is to represent the diverse opinions of impacted groups and communities, to contribute to the early identification of issues arising from the Carbon Tax, and to promote democratic and procedural legitimacy in decisions taken regarding the Carbon Tax.

Representatives

The Act identifies key communities and groups that should be represented on the Carbon Tax Stakeholders Discussion Group. Subject to the jurisdiction, it may be necessary for legislators or regulators to introduce additional groups or to amend the list so that it best reflects the interested groups in-country. It is strongly recommended that legislators and regulators do not remove any of the groups listed in the Act, although it is accepted that amendments may need to be made to the descriptions of those groups.

The Act does not provide a number of representatives per group; however, legislators and regulators must consider an appropriate number of representatives per group so as to render the Carbon Tax Stakeholders Discussion Group as effective, inclusive and fair as possible.

Frequency

It is advised that the relevant authority meets with the Carbon Tax Stakeholders Discussion Group on a six-monthly basis, with a view to foster inclusion and ensure that all decisions made regarding the imposition of the Carbon Tax are subject to consultation. However, this may not be workable subject to the circumstances of the jurisdiction in question, in which case the Carbon Tax Stakeholders Discussion Group should be consulted no less than on a yearly basis.

Additionally, it is suggested that the Carbon Tax Stakeholders Discussion Group is formed and consulted in the preparatory stages of the legislation and in any event, before it comes into force.

Costs

It is foreseen that the secretarial costs associated with the Carbon Tax Stakeholders Discussion Group should be borne by the relevant authority. It is anticipated that these costs should be reasonably low. However, legislators and regulators may wish to use the Carbon Tax revenue to finance the Carbon

Tax Stakeholders Discussion Group. Where this approach is taken, provisions must be included in the Act to ensure that the amount spent on the Carbon Tax Stakeholders Discussion Group is properly reported and accounted for in annual budget setting and the Carbon Tax Impact Report.

Section 76: Requirement for Intra-Governmental Coordination and Data Sharing

Purpose To create an obligation on all Government agencies and departments that are involved in the administration of the Carbon Tax, to cooperate, share information and collaborate to promote a high standard of administration of the Carbon Tax.

Commentary

Minimisation of tax avoidance

Effective management of the risk of tax avoidance is likely to require consistent input and communication between various ministerial departments or authoritative bodies, including the applicable revenue authority, the department for the environment, the department for energy, the department for finance and the utility regulator.

The purpose of section 76 is to ensure that such proper communication is a requirement under law and to promote effective collaboration.

Striving for best practice

The inclusion of this obligation under law is designed to catalyse the creation of channels and processes that may also benefit other cross-department initiatives. The creation of the Carbon Tax Information Sharing Committee is one such obligation.

Part 12: Tax Administration

Sections 77, 78 and 79: Administration

Purpose To provide sections for the proper administration of the Act and the Carbon Tax

Commentary

Harmonisation with existing approaches

Legislators and regulators should ensure that the Act, and administration of the Carbon Tax, reflect the existing systems and processes for business tax administration and enforcement.

This may be best achieved by requiring that the Operators of all Fuel Facilities submit their Fuel Emissions Reports as part of their annual tax return, and that all Large Industrial Emitters submit their Carbon Report as part of their annual tax return. Legislators and regulators should also give serious consideration to whether existing provisions in the Tax Administration Act (or similar), Corporate Income Tax Act (or similar) or

Excise Tax Act (or similar) can be applied to the Carbon Tax to ensure that there are provisions in place for the:

- inclusion of the Carbon Tax in Operators' tax returns;
- payment of the Carbon Tax to the Consolidated Fund;
- refund of the Carbon Tax;
- recovery of the Carbon Tax;
- penalty for incomplete information on the Carbon Tax in the tax return;
- penalty for failing to attach the required annexes for the Carbon Tax to the tax return;

- penalty for taxpayer underestimation of the Carbon Tax;
- penalty for understating fuels;
- penalty for understating emissions;
- penalty for wilfully misleading the Government in way that has lowered the taxpayer's Carbon Tax Liability; and
- any other pre-existing administrative provisions relevant to this Act.

Legislators and regulators may wish to provide for the above by expanding section 79. This should apply relevant sections of the Tax Administration Act (or similar) and Corporate Income Tax Act (or similar) to the Carbon Tax.

In the alternate, legislators and regulators may wish to provide for a separate Carbon Tax return and for separate processes and penalties for the administration of Carbon Tax.

This approach may, however, increase the costs and complexity of tax administration. Thus, the recommended approach is to include provisions in the Act to apply existing tax administration processes and penalties to the Carbon Tax to the greatest extent possible.

Sections 80, 81, 82, 83 and 84: Right to Audit

Purpose To set out the power of the relevant authority to audit any document submitted in accordance with the Act, including the scope of such powers of audit.

Commentary

Enforcement and prevention of corruption

Provisions on enforcement are imperative to the proper functioning and implementation of the Act and must be included by legislators and regulators, even where a separate tax return is not required. These sections provide an example of appropriate enforcement provisions; however, legislators and regulators should harmonise approaches and penalties with existing legislation.

Part 13: Miscellaneous

Sections 85, 86 and 87: Appeals to Minister

Purpose To provide a fair and just process for challenging decisions made by the relevant authority regarding a taxpayer under the Act.

Commentary

Harmonisation

These sections should reflect existing procedures for challenging decisions taken by authorities concerning taxation and liability for taxation. The provisions set out in sections 85, 86 and 87 represent an outline of the issues on which appeal should be allowed and a process for doing so, although it is accepted and encouraged that legislators and regulators will amend these provisions to reflect the processes existing in their legal systems.

Second level of appeal

The Act does not include a section providing for a second level of appeal to a court. In order to strengthen the enforceability and credibility of the Act, legislators may wish to include a right of appeal to a court for taxpayers that aligns with existing appeal procedures in the jurisdiction. This should provide for a higher/secondary level of appeal against the first decision of the relevant authority, panel or other deciding body, and set out the process for secondary appeal, including any costs involved, any special rules and any additional rights of appeal thereafter.

Section 88 Carbon Tax Register

Purpose To impose an obligation on the relevant authority to keep a record of taxpayers under the Act.

Commentary

Record keeping

Maintenance of accurate records of taxpayers is central to the proper functioning of the Act and mitigating the risk of corruption and fraud.

Legislators may choose to amend this section to reflect existing record-keeping practices.

Data protection

The Act does not provide for public access to the taxpayer register, with a view to ensure compliance with data protection law. Legislators and regulators should amend this section as applicable to ensure compliance with local and applicable law regarding data protection and privacy.

Section 89: Power to Make Regulations

Purpose To include an explicit power conferred on the relevant authority to make accompanying Regulations to the Act.

Commentary

Importance of Regulations

The importance and role of accompanying Regulations has been explained at various points in the preceding commentary. It is therefore imperative that the power to introduce and make Regulations is included in the Act.

Legislative process

Legislators and regulators should amend this power to reflect the legislative processes and processes for making Regulations applicable in the jurisdiction.



The Commonwealth

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