Queensland

Voluntary Carbon Credit Trading Bill 2007

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Contents

2007

A Bill

for

An Act to establish Carbon Credit Trading Corporation as a government owned corporation to manage a scheme for marketing carbon credit certificates, and for related purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Voluntary Carbon Credit Trading Act 2007*.

2 Main purpose of Act and its achievement

(1) The main purpose of this Act is to facilitate reductions in emissions of greenhouse gases, in the State, nationally and internationally, in a cost-effective and voluntary way.

(2) The purpose is to be achieved mainly by implementing a scheme for marketing carbon credit certificates on an exchange and for retailing the certificates.

(3) It is Parliament's expectation that the scheme will—

(a) reduce the growth in greenhouse gas emissions and other emissions that may be relevant to climate change, associated with power generation, transportation, manufacturing and other business activities; and

(b) contribute to the diversification of the State's energy mix towards the greater use of alternative energy sources; and

(c) encourage businesses to engage in programs for treating or using carbon dioxide for sequestration, including, for example, planting trees and other vegetation; and

(d) encourage individuals and businesses to contribute funds to assist the development of alternative energy sources to meet future requirements.

3 Dictionary

The dictionary in the schedule defines particular words used in this Act.

Part 2 Carbon Credit Trading Corporation

4 Constitution of corporation

(1) The Carbon Credit Trading Corporation is established.

(2) The corporation is a body corporate.

Note—

For particular provisions about the corporation, see part 5.

5 Functions of corporation

(1) The corporation has the following functions—

(a) establishing an accreditation system for businesses that reduce or remove carbon emissions;

(b) issuing carbon credit certificates to owners of accredited businesses;

(c) facilitating the trading of carbon credit certificates on the Carbon Credit Trading Exchange established under part 3 (the ***exchange***);

(d) keeping a register of holdings and transactions of carbon credit certificates;

(e) taking active measures to ensure carbon credit certificates become acceptable and tradeable in national and international markets;

(f) performing another function given to the corporation under this or another Act;

(g) taking action incidental to the discharge of a function mentioned in paragraphs (a) to (f).

(2) The corporation must perform its functions in a way that is consistent with the main purpose of this Act or the way in which section 2 states it is to be achieved.

Part 3 Establishment of the exchange

6 Establishment

The corporation is the exchange.

Part 4 Provisions about the market

Division 1 Preliminary

7 The market

This part establishes the market for the exchange.

8 Certificate-based scheme

(1) This part provides for a certificate-based scheme for the purposes of the market.

(2) Under the scheme—

(a) the chief executive officer may—

(i) on application by a person, accredit the person's business as a business that removes or reduces carbon emissions; and

(ii) issue carbon credit certificates to the person; and

(b) local governments, departments and other entities may, having purchased a parcel of carbon credit certificates—

(i) sell individual carbon credit certificates to residents of their local government areas or their customers; and

(ii) use the supply of goods and services as the basis for collecting funds to pay for the individual certificates; and

(c) the exchange controls the trading of certificates.

Division 2 Carbon credit certificates

9 Certificates

The corporation may, in the way prescribed under a regulation, issue to an accredited business the following carbon credit certificates under the scheme (each a ***certificate***)—

(a) a certificate for each carbon unit that a person removes from the atmosphere, including, for example, by removing carbon dioxide by sequestration;

(b) a certificate for each carbon unit that a person would, had the person not used an alternative energy source, have produced by using fossil fuels;

(c) a certificate for each carbon unit that a person producing energy by fossil fuels reduces carbon emissions compared to the relevant industry standard.

10 Cancellation of certificates

The corporation may cancel a certificate in the circumstances prescribed under a regulation.

11 Expiry of certificates

Unless a certificate is cancelled, it expires when the earlier of the following happens—

(a) its purchase under division 6;

(b) the end of 2 years after it is issued.

Division 3 Accreditation

12 Application for accreditation

(1) A person who is the owner of a business may apply to the chief executive officer for accreditation of the business.

(2) The application must be—

(a) made in the form approved by the chief executive officer; and

(b) lodged at the registered office of the corporation; and

(c) accompanied by—

(i) the documents stated in the form; and

(ii) the fee prescribed under a regulation.

13 Chief executive officer may accredit business

(1) The chief executive officer may accredit a business as an accredited business.

(2) In deciding whether to accredit a business, the chief executive officer must have regard to each of the following—

(a) whether the business removes carbon units from the atmosphere, including, for example, by removing carbon dioxide by sequestration;

(b) whether the business reduces carbon emissions by using an alternative energy source instead of using fossil fuels;

(c) whether a business that uses fossil fuels as an energy source produces less carbon emissions compared to the relevant industry standard;

(d) any other matters stated in the guidelines prescribed under a regulation.

14 Chief executive officer may require applicant to give further information

(1) The chief executive officer may, by written notice, require an applicant for accreditation of a business to give the chief executive officer any further information about the application as the chief executive officer requires.

(2) The notice may state the period within which the information must be given.

15 Deciding applications

The corporation must consider, and decide to approve or refuse to approve, each application for accreditation.

16 Conditions of accreditation

(1) The accreditation of an accredited business is subject to the following conditions—

(a) any conditions imposed by the chief executive officer at the time of accreditation;

(b) any conditions prescribed under a regulation.

(2) The accreditation remains in force, unless sooner cancelled, for a period prescribed under a regulation.

17 Cancellation of accreditation

The chief executive officer may, by written notice given to an accredited business, cancel the accreditation if the chief executive officer reasonably believes a condition of the accreditation has been contravened.

18 Chief executive officer to notify of proposed cancellation

(1) Before cancelling an accreditation, the chief executive officer must give written notice of the proposed cancellation to the holder of the accreditation.

(2) The notice—

(a) must state that the chief executive officer proposes to cancel the accreditation; and

(b) may invite the holder to make a written submission to the chief executive officer about the proposed cancellation (a ***submission***).

(3) The notice must state a period within which the holder of the accreditation may make the submission.

(4) The period must not end earlier than 30 days after the day on which the notice was given.

(5) In considering whether to cancel an accreditation, the chief executive officer must have regard to any submission made.

(6) This section does not apply to a cancellation requested by the holder of the accreditation.

Division 4 Auditing

19 Appointment and functions of auditors

(1) The chief executive officer may appoint a person who has the necessary expertise or experience to carry out the functions of an auditor.

(2) A person appointed as an auditor has the following functions—

(a) to assist the chief executive officer to assess applications for accreditation by auditing the businesses to which the applications relates;

(b) to audit accredited businesses, in the way and at the intervals prescribed under a regulation, and report to the chief executive officer on whether, in the auditor's opinion, the accredited businesses are complying with the conditions of their accreditation.

Division 5 Marketing of certificates

20 Trading certificates on exchange

(1) Certificates may be traded on the exchange.

(2) The holder of a certificate may sell the certificate to another entity.

(3) Certificates may be traded only in parcels of a number prescribed under a regulation.

(4) The exchange must, in the way prescribed under a regulation, control the sale.

(5) The seller and the purchaser of each parcel of certificates traded on the exchange must pay the exchange the fee prescribed under a regulation for the trade.

21 Publishing price paid for certificates

The exchange must, in the way and at the times or intervals prescribed under a regulation, publish the price paid for certificates.

Division 6 Retailing of certificates

22 Retailed certificates

(1) A parcel of certificates traded on the exchange may be divided into individual certificates (each a ***retailed certificate***).

(2) A retailed certificate may be sold only by an approved entity in the way provided for under section 24.

23 Approved entities

(1) This section applies to the following (each an ***approved entity***)—

(a) a local government;

(b) a department;

(c) another entity if the entity, or class of entity, is an entity or class approved under a regulation.

(2) An approved entity that has purchased a parcel of certificates from the exchange may—

(a) divide the parcel into retailed certificates; and

(b) sell the retailed certificates to the residents of their local government areas or their customers in the way provided for under section 24.

(3) If a parcel of certificates is purchased and divided into retailed certificates, the price at which each retailed certificate may be sold is the price paid for the certificate.

24 Selling retailed certificates

(1) An approved entity proposing to sell a retailed certificate must estimate or work out the amount of carbon units the person is likely to consume, or has consumed, in a particular period by using an energy source that the entity provides or to which the entity has a connection.

(2) The approved entity must give the person notice of the number of carbon units estimated or worked out under subsection (1) and the price for the retailed certificates for the carbon units.

(3) The person may choose to pay the approved entity the price to purchase the retailed certificates.

Examples of the process by which an approved entity may sell retailed certificates to a person—

1 A local government may include in each rates notice given to an owner of land in its local government area the price to purchase retailed certificates for the carbon units the local government works out the owner has produced, using water and other services the local government has provided, in the period to which the notice relates.

2 The department in which the *Transport Operations (Road Use Management) Act 1995* is administered may include in a registration renewal notice for a registered vehicle the price to purchase retailed certificates for the carbon units the department estimates the vehicle may produce in the period to which the registration relates.

3 An approved entity who is an electricity or gas retailer may include in each electricity or gas account given to an electricity or gas customer of the retailer the price to purchase retailed certificates for the carbon units the retailer works out the customer has produced in the period to which the account relates.

Division 7 Advertising

25 Advertising the holding or purchasing of certificates

A person who holds a certificate or purchases a retailed certificate may, in the way prescribed under a regulation, advertise or promote that the person holds the certificate or has purchased the retailed certificate.

Division 8 National and international markets

26 Trading on national and international markets

(1) The corporation must take all necessary steps to promote its activities within and outside the State.

(2) It is Parliament's expectation that certificates may be able to be traded on national and international markets.

Division 9 Carbon credit certificates register

27 Keeping register

(1) The chief executive officer must keep a register of details about the allocation, holding, transfer, cancellation and expiry of certificates.

(2) The chief executive officer may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or another Act.

(3) The chief executive officer must include in the register the information prescribed under a regulation.

28 Access to register

The chief executive officer must—

(a) keep the register open for inspection by the public during office hours on business days at the places the chief executive officer considers appropriate; and

(b) allow a person to take extracts, free of charge, from the register; and

(c) give a person who asks for a copy of all or part of a notice, a document or information held in the register the copy on payment of the fee prescribed under a regulation.

Division 10 Offences

29 False or misleading information given by applicant

A person who applies for accreditation of the person's business must not state anything to the chief executive officer that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

30 False or misleading documents given by applicant

A person who applies for accreditation of the person's business must not give the chief executive officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

31 Advertising in other than the prescribed way

A person must not advertise or promote, other than in the prescribed way, that the person holds a certificate or has purchased a retailed certificate.

Maximum penalty—100 penalty units.

Part 5 Corporation to become a company GOC

32 Corporation declared to be government entity

The corporation is declared to be a government entity for section 5 of the GOC Act.

33 Company GOC

The Minister and the Minister administering the GOC Act must take all necessary steps under the GOC Act to ensure the corporation becomes a company GOC.

34 Control of corporation by QIC

(1) To ensure QIC maintains control over the corporation as a company GOC, the majority of directors appointed under section 57 or 96 of the GOC Act must be persons who are also directors of QIC.

(2) In this section—

QIC means the Queensland Investment Corporation established under the *Queensland Investment Corporation Act 1991*, section 5.

Part 6 Miscellaneous

35 Allegations of false or misleading matters

(1) This section applies to a proceeding for an offence against this Act described as involving—

(a) false or misleading information; or

(b) a false or misleading document or statement.

(2) It is enough for the complaint starting the proceeding to state the document, information or statement was 'false or misleading' to the defendant's knowledge, without specifying which.

(3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

36 Appeals

(1) This section applies to the following decisions—

(a) a decision to refuse to accredit a business;

(b) a decision to state a condition of an accreditation;

(c) a decision to cancel an accreditation.

(2) A person whose interests are affected by the decision must be given an information notice.

(3) The person to whom an information notice is given may appeal to the body, and in the way, prescribed under a regulation.

(4) In this section—

appeal, to a body, includes to seek a review by the body.

information notice, for a decision, means a notice stating each of the following—

(a) the decision, and the reasons for it;

(b) all rights of appeal under this Act;

(c) the period in which any appeal under this Act must be started;

(d) how rights of appeal under this Act are to be exercised;

(e) that a stay of a decision the subject of appeal under this Act may be applied for under this Act.

37 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about any of the following—

(a) what are relevant industry standards for a provision of this Act;

(b) the fees payable under this Act;

(c) imposing a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.

Schedule Dictionary

section 3

accredited business means a business accredited under part 4, division 3.

alternative energy source means energy produced using other than a fossil fuel source, including, for example, biogas, geothermal energy, hydro-electricity, solar power and wind power.

approved entity see section 23(1).

auditor means a person appointed as an auditor under section 19.

carbon credit certificate means a carbon credit certificate that may be issued under section 9.

carbon credit certificate register means the register the chief executive officer keeps under section 27.

carbon unit means a measure of carbon emissions provided for under a regulation.

certificate see section 9.

chief executive officer means the chief executive officer of the corporation.

corporation means the Carbon Credit Trading Corporation established under section 4.

exchange see section 5(1)(c).

GOC Act means the *Government Owned Corporations Act 1993*.

retailed certificate see section 22(1).

scheme means the certificate-based scheme under section 8.