Clean Energy (Unit Shortfall Charge—General) Bill 2011

No. , 2011

(Climate Change and Energy Efficiency)

A Bill for an Act to impose a charge on unit shortfalls under the Clean Energy Act 2011, so far as that charge is neither a duty of customs nor a duty of excise
## Contents

1. Short title
2. Commencement
3. Definitions
4. Crown to be bound
5. Extension to external Territories
6. Extension to exclusive economic zone and continental shelf
7. Extension to Joint Petroleum Development Area
8. Imposition of charge
9. Act does not impose a tax on property of a State
10. Regulations
A Bill for an Act to impose a charge on unit shortfalls under the Clean Energy Act 2011, so far as that charge is neither a duty of customs nor a duty of excise

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Clean Energy (Unit Shortfall Charge—General) Act 2011.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with...
Section 3

column 2 of the table. Any other statement in column 2 has effect according to its terms.

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Sections 3 to 10</td>
<td>At the same time as section 3 of the Clean Energy Act 2011 commences.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Definitions

In this Act:

*benchmark average auction price* has the same meaning as in the *Clean Energy Act 2011*.

*fixed charge year* has the same meaning as in the *Clean Energy Act 2011*.

*flexible charge year* has the same meaning as in the *Clean Energy Act 2011*.

*Joint Petroleum Development Area* has the same meaning as in the *Petroleum (Timor Sea Treaty) Act 2003*.

*person* has the same meaning as in the *Clean Energy Act 2011*.

*unit shortfall* has the same meaning as in the *Clean Energy Act 2011*.
vintage year has the same meaning as in the Clean Energy Act 2011.

4 Crown to be bound

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island. However, it does not bind the Crown in right of the Commonwealth.

5 Extension to external Territories

This Act extends to every external Territory.

6 Extension to exclusive economic zone and continental shelf

This Act extends to Australia’s exclusive economic zone and continental shelf.

7 Extension to Joint Petroleum Development Area

This Act extends to the Joint Petroleum Development Area.

8 Imposition of charge

(1) If a person has a unit shortfall for a financial year, charge is imposed on the unit shortfall.

(2) Charge imposed by subsection (1) is payable by the person.

Amount of charge

(3) The amount of charge imposed by subsection (1) on a unit shortfall is the amount worked out using the formula:

\[
\text{Number of units in Prescribed amount for the unit shortfall the financial year} \times \text{Prescribed amount for the financial year}
\]

where:

prescribed amount for the financial year means:
Section 9

(a) if the financial year is a fixed charge year—an amount equal
to 130% of the per unit charge applicable under subsection
100(1) of the Clean Energy Act 2011 for the issue of a carbon
unit with a vintage year of that fixed charge year; or
(b) if the financial year is a flexible charge year:
   (i) if an amount is specified in the regulations for the
       financial year—that amount; or
   (ii) otherwise—an amount equal to 200% of the benchmark
       average auction charge for the previous financial year.

(4) An amount specified in regulations made for the purposes of
   subparagraph (b)(i) of the definition of prescribed amount for the
   financial year in subsection (3) in relation to a financial year:
   (a) must not be less than 130% of the benchmark average
       auction charge for the previous financial year; and
   (b) must not exceed 200% of the benchmark average auction
       charge for the previous financial year.

General

(5) This section imposes charge only so far as that charge is neither a
duty of customs nor a duty of excise within the meaning of
section 55 of the Constitution.

9 Act does not impose a tax on property of a State

(1) This Act has no effect to the extent (if any) to which it imposes a
tax on property of any kind belonging to a State.

(2) In this section, property of any kind belonging to a State has the
same meaning as in section 114 of the Constitution.

10 Regulations

The Governor-General may make regulations prescribing matters
required or permitted by this Act to be prescribed.