

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Clean Energy (Unit Issue Charge—
Auctions) Bill 2011**

No. , 2011

(Climate Change and Energy Efficiency)

**A Bill for an Act to impose charges on the issue of
carbon units issued as a result of an auction under
the *Clean Energy Act 2011*, so far as those charges
are neither duties of customs nor duties of excise**

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1 **A Bill for an Act to impose charges on the issue of**
2 **carbon units issued as a result of an auction under**
3 **the *Clean Energy Act 2011*, so far as those charges**
4 **are neither duties of customs nor duties of excise**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act may be cited as the *Clean Energy (Unit Issue Charge—*
8 *Auctions) Act 2011*.

9 **2 Commencement**

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

Section 3

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

3

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

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

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

10 3 Definitions

11 In this Act:

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

13 ***carbon unit*** has the same meaning as in the *Clean Energy Act*
14 *2011*.

15 ***eligible international emissions unit*** has the same meaning as in
16 the *Australian National Registry of Emissions Units Act 2011*.

17 ***issue***, in relation to a carbon unit, has the same meaning as in the
18 *Clean Energy Act 2011*.

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

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

1 **Regulator** means the Clean Energy Regulator.

2 **vintage year** has the same meaning as in the *Clean Energy Act*
3 *2011*.

4 **4 Crown to be bound**

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

9 **5 Extension to external Territories**

10 This Act extends to every external Territory.

11 **6 Extension to exclusive economic zone and continental shelf**

12 This Act extends to Australia's exclusive economic zone and
13 continental shelf.

14 **7 Extension to Joint Petroleum Development Area**

15 This Act extends to the Joint Petroleum Development Area.

16 **8 Imposition of charge**

17 (1) If:

18 (a) a carbon unit is issued to a person; and

19 (b) the unit is issued as the result of an auction;

20 charge is imposed on the issue of the unit.

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

22 (3) The amount of charge imposed by subsection (1) on the issue of a
23 carbon unit is the amount equal to the amount the person indicated
24 or declared, in the course of the auction, that the person would be
25 willing to pay by way of charge for the issue of the unit, so long as:

26 (a) in a case where:

Section 8

- 1 (i) the unit has the vintage year beginning on 1 July 2015;
2 and
- 3 (ii) regulations are in force for the purposes of section 8 of
4 the *Clean Energy (International Unit Surrender*
5 *Charge) Act 2011* in relation to the surrender of an
6 eligible international emissions unit in relation to the
7 vintage year;
- 8 the amount the person indicated or declared, in the course of
9 the auction, that the person would be willing to pay by way
10 of charge for the issue of the unit is not less than:
- 11 (iii) \$15; or
- 12 (iv) if a greater amount is prescribed for the purposes of this
13 subparagraph—that greater amount; and
- 14 (b) in a case where:
- 15 (i) the unit has the vintage year beginning on 1 July 2016;
16 and
- 17 (ii) regulations are in force for the purposes of section 8 of
18 the *Clean Energy (International Unit Surrender*
19 *Charge) Act 2011* in relation to the surrender of an
20 eligible international emissions unit in relation to the
21 vintage year;
- 22 the amount the person indicated or declared, in the course of
23 the auction, that the person would be willing to pay by way
24 of charge for the issue of the unit is not less than:
- 25 (iii) \$16; or
- 26 (iv) if a greater amount is prescribed for the purposes of this
27 subparagraph—that greater amount; and
- 28 (c) in a case where:
- 29 (i) the unit has the vintage year beginning on 1 July 2017;
30 and
- 31 (ii) regulations are in force for the purposes of section 8 of
32 the *Clean Energy (International Unit Surrender*
33 *Charge) Act 2011* in relation to the surrender of an
34 eligible international emissions unit in relation to the
35 vintage year;
- 36 the amount the person indicated or declared, in the course of
37 the auction, that the person would be willing to pay by way
38 of charge for the issue of the unit is not less than:

- 1 (iii) \$17.05; or
2 (iv) if a greater amount is prescribed for the purposes of this
3 subparagraph—that greater amount; and
4 (d) in a case where:
5 (i) none of the above paragraphs apply; and
6 (ii) under the regulations, an amount is taken to be the
7 reserve charge amount in relation to the auction;
8 the amount the person indicated or declared, in the course of
9 the auction, that the person would be willing to pay by way
10 of charge for the issue of the unit is not less than that reserve
11 charge amount.
- 12 (4) Subsection (3) does not apply to an amount the person indicated or
13 declared, in the course of the auction, that the person would be
14 willing to pay by way of charge for the issue of the unit, unless the
15 amount was accepted by the Regulator in the course of the auction.
- 16 (5) Subsection (1) imposes charge only so far as that charge is:
17 (a) taxation within the meaning of section 55 of the Constitution;
18 and
19 (b) neither a duty of customs nor a duty of excise within the
20 meaning of that section.

21 **9 Act does not impose a tax on property of a State**

- 22 (1) This Act has no effect to the extent (if any) to which it imposes a
23 tax on property of any kind belonging to a State.
- 24 (2) In this section, *property of any kind belonging to a State* has the
25 same meaning as in section 114 of the Constitution.

26 **10 Regulations**

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