

TASMANIA

SAFE CLIMATE BILL 2021

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SAFE CLIMATE BILL 2021

(Brought in by Rosalie Ellen Woodruff MP)

A BILL FOR

An Act to acknowledge the climate emergency as a threat to life on Earth and establish a framework for Tasmania to respond, provide targets and mechanisms to reduce greenhouse gas emissions, protect and increase carbon stores, and set requirements for climate adaptation

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - PRELIMINARY

1. Short title

This Act may be cited as the *Safe Climate Act 2021*.

2. Commencement

This Act commences 60 days after the day on which this Act receives the Royal Assent.

3. Interpretation

In this Act -

abatement means the reduction of anthropogenic greenhouse gas emissions;

abatement targets means the abatement targets set out in section 40 of this Act and proclaimed under

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section 40 of this Act;

Board means the Board of the Safe Climate Commission constituted under section 15 of this Act;

carbon accreditation standards means standards developed under section 25 of this Act;

carbon storage means the sequestration of carbon in a carbon store;

carbon store means natural or synthetic systems containing sequestered carbon with ongoing potential for the sequestration of carbon;

climate adaptation means adjustment in natural or human systems in response to actual or expected climatic conditions, which moderate harm or utilise beneficial opportunities;

climate emergency means the global state of emergency resulting from the climatic changes being caused by anthropogenic factors, including the combustion of fossil fuels, land clearing and agricultural practices, as well as the resulting impacts of climatic changes on the environment, societies and economies;

climate mitigation means the reduction of atmospheric greenhouse gases through abatement or sequestration;

climate science means the tertiary qualified study of a scientific discipline with a focus on climate change, including a history of publishing climate change research, subject to peer review, in scientific journals;

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Commission means the Safe Climate Commission established under section 9 of this Act;

Commissioner means the Commissioner of the Safe Climate Commission appointed under section 17 of this Act;

Committee means the Parliamentary Joint Standing Committee on a Safe Climate constituted under section 9 of this Act;

corporation has the same meaning as defined in section 57A of the *Corporations Act 2001* of the Commonwealth;

council means a council established under section 18 of the *Local Government Act 1993*;

greenhouse gas emissions means emissions of –

(a) carbon dioxide; or

(b) methane; or

(c) nitrous oxide; or

(d) hydrofluorocarbons; or

(e) perfluorocarbons; or

(f) sulfur hexafluoride; or

(g) gases prescribed by the regulations;

incentives include financial and non-financial assistance;

member in relation to a political party means a member of the House of Assembly endorsed by a political party under section 77 of the *Electoral Act 2004*, and who retains membership to that political

party;

municipal area means a municipal area within the meaning of the *Local Government Act 1993*;

municipal climate adaptation plan means a plan prepared under section 46 of this Act;

offset, in relation to greenhouse gas emissions, means the matching of greenhouse gas emissions with equivalent climate mitigation activities;

political party means a party registered under Part 4 of the *Electoral Act 2004*;

sequestration means the removal of carbon dioxide from the atmosphere through organic or synthetic carbon fixation pathways;

state climate adaptation plan means a plan prepared under section 45 of this Act;

state emissions report means a report under section 27 of this Act;

State Service Agency has the same meaning as ‘Agency’ in the *State Service Act 2000*; and

voluntary emissions agreement means an agreement under section 24 of this Act.

4. Acknowledgement of climate emergency

The Parliament of Tasmania hereby acknowledges the world is in a state of climate emergency and without serious action and intervention the results will be devastating to life on Earth.

5. Principles

The principles through which this Act should be interpreted are –

- (a) there is an urgent need to respond to the climate emergency; and
- (b) responses to the climate emergency should rely on contemporary climate science; and
- (c) it is the responsibility of the State of Tasmania to cause greenhouse gas emissions to be reduced; and
- (d) the costs and impacts of climate mitigation for the most socio-economically disadvantaged should be avoided or alleviated to the greatest extent practicable.

6. Objects of Act

The objects of this Act are –

- (a) to provide a legislative framework to facilitate a sustained, meaningful response to the climate emergency in Tasmania; and
- (b) to set binding targets for the government to act on the climate emergency; and
- (c) to enable strong and independent advocacy for meaningful responses to the climate emergency; and
- (d) to facilitate, and provide incentives for, the replacement of unsustainable practices with sustainable practices; and

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- (e) to improve health, security, and wellbeing outcomes in changing climate; and
- (f) to protect the interests and rights of future generations through a meaningful response to the climate emergency; and
- (g) to ensure that, in responding to the climate emergency, inequality is redressed.

7. Application of Act

Unless the contrary intention appears, this Act is in addition to, and does not derogate from, the provisions of any other Act.

8. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – SAFE CLIMATE COMMITTEE

9. Constitution of Safe Climate Committee

- (1) The Joint Standing Committee on a Safe Climate is established.
- (2) The Committee shall be appointed at the commencement of the first session of each Parliament according to the practice regulating the appointment of members to serve on select committees of the Legislative Council and House of Assembly respectively.
- (3) The Committee shall consist of six members, of whom –
 - (a) 3 are to be members of the Legislative Council; and
 - (b) 3 are to be members of the House of Assembly.
- (4) Of the members of the Committee referred to in subsection (3)(b), at least one member of any political party that has a member or members in the House of Assembly is to be a member of the Committee.
- (5) Subsection (4) notwithstanding, in the event that there are more than 3 political parties represented in the House of Assembly, priority is to be provided to the 3 political parties with the most members of that political party represented in the House of Assembly.
- (6) Subsection (4) notwithstanding, a person must understand and accept the acknowledgement of climate emergency under section 4 of this Act in order to be eligible for membership of the Committee.
- (7) Schedule 1 has effect with respect to the

membership of the Committee.

(8) Schedule 2 has effect with respect to the proceedings of the Committee.

10. Functions of Committee

(1) The Committee has the following functions –

(a) to inquire into, consider and report to the Parliament on any matter referred to the Committee by either House relating to the climate emergency, including –

(i) policy relating to the climate emergency; or

(ii) greenhouse gas emissions; or

(iii) the impacts of the climate emergency on Tasmania; and

(b) to inquire into, consider and report to the Parliament on any matter arising in connection with the climate emergency that the Committee considers appropriate; and

(c) any other functions the Committee has under this, or any other Act; and

(d) any other functions that may be prescribed.

(2) In performing its functions the Committee is to have reference to contemporary climate science.

PART 3 – SAFE CLIMATE COMMISSION

Division 1 – Safe Climate Commission

11. Establishment of Safe Climate Commission

- (1) The Safe Climate Commission is established.
- (2) The Safe Climate Commission includes the Board, any member of the Board, the Commissioner, and the staff of the Safe Climate Commission.
- (3) The Commission –
 - (a) is a body corporate with perpetual succession; and
 - (b) may have a seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown.
- (4) If the Commission has a seal –
 - (a) it is to be kept and used as authorised by the Commission; and
 - (b) all courts and persons acting judicially must take judicial notice of the imprint of the seal on a document and presume that it was duly sealed by the Commission.

12. Objectives and Functions of Commission

- (1) The main objectives of the Commission are to contribute to –

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- (a) the reduction of greenhouse gas emissions in Tasmania; and
 - (b) protecting and increasing Tasmania’s carbon stores; and
 - (c) the development and implementation of climate adaptation measures.
- (2) The Commission has the following functions –
- (a) to provide advice and promote actions to contribute to climate mitigation and adaptation across government, industry, the community sector and households; and
 - (b) to develop materials, programs and partnerships to encourage contributions to climate mitigation and adaptation; and
 - (c) to commission, conduct and publish research relating to climate projects and the impact of the climate emergency; and
 - (d) to encourage public participation in climate change advocacy and promote the right of peaceful protest; and
 - (e) to advance the objectives of this Act and of the Commission generally; and
 - (f) any other functions the Commission has under this, or any other Act; and
 - (g) any other functions that may be prescribed.
- (3) In the performance of its functions, the Commission is to have constant regard to the objectives set out in this section and is to act in a way that best meets and advances those objectives.

13. Powers of Commission

- (1) The Commission has the power to do –
 - (a) all things necessary or convenient to be done in connection with the performance of its functions; and
 - (b) all other things that it is authorised to do by this or any other Act.
- (2) Without limiting subsection (1), the Commission has the power to –
 - (a) acquire, hold, dispose of and otherwise deal with property; and
 - (b) enter into contracts; and
 - (c) control access to, and the uses to be made of, any material, or assets, owned or developed by the Authority.
- (3) In the exercise of its powers, the Commission is to have constant regard to the objectives and functions of the Commission and is to act in a way that best meets and advances those objectives and functions.

14. Independence of Commission

The Commission is not subject to the direction or control of the Minister in respect of the performance or exercise of its functions or powers.

Division 2 – Board and Staff of Commission

15. Board of Commission

- (1) The Board of the Safe Climate Commission is established.
- (2) The members of the Board are –
 - (a) the chair; and
 - (b) not less than 5, and not more than 7, other persons.
- (3) The chair and members of the Board referred to in subsection (2) are appointed by the Governor on the recommendation of the Minister.
- (4) In making a recommendation under subsection (3), the Minister is to ensure that the Board and chair collectively has 3 members with expertise in climate science.
- (5) In making a recommendation under subsection (3), the Minister is to ensure that the Board and chair collectively has experience in most or all of the following areas –
 - (a) legal practice;
 - (b) local government and planning;
 - (c) public communication;
 - (d) public policy;
 - (e) emergency response;
 - (f) environmental regulation.

- (6) Before the Minister makes a recommendation under subsection (3) the Minister must consult the Committee.
- (7) If the members of the Committee have not been appointed or Parliament has been prorogued, the Minister is to consult –
- (a) the President of the Legislative Council; and
 - (b) the Parliamentary leader of each political party represented in the House of Assembly.
- (8) Before the Minister makes a recommendation under subsection (3) the Minister is to ensure each person to be recommended by the Minister understands and accepts the acknowledgement of climate emergency under section 4 of this Act.
- (9) Schedule 3 has effect with respect to membership of the Board.
- (10) Schedule 4 has effect with respect to meetings of the Board.

16. Role and powers of Board

- (1) The role of the Board is to –
- (a) provide guidance to facilitate the functions and powers of the Commission, under this or any other Act, being performed and exercised by the Commissioner and staff of the Commission in accordance with sound public administration practice and principles of procedural fairness and the objectives of this Part; and
 - (b) monitor and report to the Minister or Committee, or both the Minister and Committee, on the operation and effectiveness of this Part and other

legislation relevant to the functions and objectives of the Commission.

(2) The Board has the power to do all things necessary or convenient to be done in connection with the performance and exercise of its responsibilities and powers under this or any other Act.

17. Appointment of Commissioner

(1) The Governor, on the recommendation of the Minister, is to appoint a person as the Safe Climate Commissioner.

(2) The Safe Climate Commissioner is the chief executive officer of the Commission, and is responsible to the Board for the general administration, management and operations of the Commission.

(3) The Minister must consult with the Committee, the President of the Legislative Council and the Speaker of the House of Assembly before making a recommendation under subsection (1).

(4) Before the Minister makes a recommendation under subsection (1) the Minister is to ensure that the person to be recommended by the Minister understands and accepts the acknowledgement of climate emergency under section 4 of this Act.

(5) Schedule 5 has effect with respect to the appointment, terms, employment conditions and vacation of office of the Commissioner.

18. Deputy Commissioner

- (1) Subject to and in accordance with the *State Service Act 2000*, a person is to be appointed or employed as Deputy Commissioner.
- (2) The Deputy Commissioner is to perform such functions as the Commissioner directs.
- (3) The Deputy Commissioner is to act as Commissioner during any illness, suspension or absence of the Commissioner, and during any vacancy in that office.
- (4) While acting as Commissioner, the Deputy Commissioner -
 - (a) has the same immunities and independence as the Commissioner; and
 - (b) is to receive a salary at the same rate as that payable to the Commissioner; and
 - (c) is to exercise the powers and perform the functions of the Commissioner under this or any other Act; and
 - (d) is taken to be the Commissioner in the exercise of powers and performance of functions of the Commissioner, and any act done towards this purpose has the same effect as if it were done by the Commissioner.

19. Staff

Subject to and in accordance with the *State Service Act 2000*, persons may be appointed or employed for the purposes of this Part.

Division 3 – Functions and Powers of Commissioner

20. Functions of Commissioner

- (1) The Commissioner has the following functions –
 - (a) to be a public advocate for climate action; and
 - (b) assess, evaluate and publicly comment on government climate policy; and
 - (c) report publicly on matters relevant to the climate emergency and the objectives of the Commission more generally; and
 - (d) to advise and comment on government compliance with this Act, and any other Act relevant to the climate emergency; and
 - (e) to advocate for policy and legislative reform to improve climate mitigation and adaptation outcomes; and
 - (f) to advance the objectives of this Act and the Commission generally; and
 - (g) any other functions the Commissioner has under this, or any other Act; and
 - (h) any other functions that may be prescribed.
- (4) In the performance of their functions, the Commissioner is to have constant regard to the objectives set out in section 12 of this Act and is to act in a way that best meets and advances those objectives.

21. Powers of Commissioner

The Commissioner has the power to do –

- (a) all things necessary or convenient to be done in connection with the performance of their functions; and
- (b) all other things that it is authorised to do by this or any other Act.

22. Power to gather information

- (1) If necessary or convenient for the performance of a function, the exercise of a power, or the advancing of the Commission’s objectives, the Commissioner may request an entity to provide information to the Commission, if the information requested is reasonable.
- (2) Without limiting the generality of subsection (1), information includes –
 - (a) records in the format, or manner, specified by the Commissioner; and
 - (b) answers to questions whether orally or in writing; and
 - (c) production of documents as specified in the requirement.
- (3) Without limiting the generality of subsection (1), an entity includes –
 - (a) A State Service Agency; and
 - (b) A Council; and
 - (c) A corporation.
- (4) Without limiting the generality of subsection (1) or (2), the type of information requested may relate to –
 - (a) greenhouse gas emissions; or

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- (b) greenhouse gas emissions mitigation activities; or
 - (c) climate adaptation activities.
- (5) In considering whether a request for information is reasonable under subsection (1) the Commissioner, as far as is relevant, is to have regard to –
- (a) the likely relative contribution of the entity to state greenhouse gas emissions; and
 - (b) any obligations or agreements the entity has under this Act; and
 - (c) the relative climate adaptation responsibilities of the entity; and
 - (d) the likely resource requirements to produce the information requested relative to the entity’s available resources.
- (6) In making a request under this section, the Commissioner –
- (a) is to provide a reasonable timeframe for an entity to provide information; and
 - (b) may vary the timeframe requested under paragraph (a) on application of an entity of which a request has been made under subsection (1).
- (7) An entity must provide information requested under this section within the timeframes requested.

Penalty: Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

(8) In addition to any penalty imposed on a person under subsection (7), a court may make an order requiring the person to provide information, answer questions, or produce documents, to the Commissioner in accordance with the order.

(9) A person complying with a requirement of the Commissioner or the court under this section cannot, by virtue of complying with that requirement –

(a) be held to have breached any code of professional etiquette or ethics; or

(b) be taken to have departed from acceptable standards of professional conduct; or

(c) be taken to have contravened any confidentiality requirements of any Act.

23. Citizen juries

(1) The Commissioner may convene a citizen jury for the purposes of progressing the objectives or functions of the Commission.

(2) Without limiting the generality of subsection (1), a citizen jury may be convened to –

(a) resolve in favour of, or in opposition to, a policy or bill, or a proposed policy or bill, that relates to or may have a material relationship with the climate emergency; or

(b) determine whether or not the measures in an emissions abatement plan prepared under section 35 of this Act are sufficient to meet the abatement targets in section 40 of this Act; or

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(c) determine whether or not a report prepared under section 37 of this Act sufficiently meets the standard required under section 36(3) of this Act.

(3) A citizen jury may be designed to represent a particular demographic, if the Commissioner considers that the perspective of the demographic in question is particularly relevant.

(4) The Commissioner is to ensure that, as far as is practicable all interested parties, or if not practicable, the parties that the Commissioner reasonably considers to hold primary interest, are afforded opportunity to present to a citizen jury.

(5) The Commissioner is to ensure that, as far as is practicable, a broad and balanced range of views and interests are presented to a citizen jury.

(6) Further conditions for citizen juries may be prescribed, including but not limited to –

(a) the process for citizen jury member selection; and

(b) compensation payable, or not payable, to citizen jury participants; and

(c) conduct and rules of proceedings; and

(d) conduct of citizen jury members.

24. Voluntary emissions agreements

(1) The Commissioner may engage with corporations to develop voluntary emissions agreements for the purposes of reducing greenhouse gas emissions.

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- (2) The Commissioner may make a request to the Minister for incentives to be offered as part of a voluntary emissions agreement.
- (3) The Minister may –
 - (a) agree to offer the requested incentives; or
 - (b) reject the request; or
 - (c) propose alternative incentives.
- (4) In the event that the Minister agrees to offer incentives, the Crown becomes a party to the agreement.
- (5) In the event that incentives are offered as part of a voluntary emissions agreement, the agreement may contain provisions for the recovery of money or other forms of incentives in the event that conditions are not met.
- (6) Other than the conditions set out in subsection (5) voluntary emissions agreements are not binding.
- (7) The Commissioner may publish details of voluntary emissions agreements with the consent of each party involved.
- (8) The Commissioner may develop guidelines for voluntary emissions agreements.

25. Carbon accreditation standards

- (1) The Commissioner may develop carbon accreditation standards for the purposes of accrediting corporations or other entities.
- (2) Carbon accreditation standards developed under subsection (1) must, as far as is practicable and relevant, be consistent with this Act and the regulations under this Act.

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- (3) Without limiting the generality of subsection (1) carbon accreditation standards may include –
- (a) multiple tiers of standards; and
 - (b) industry-specific standards; and
 - (c) assessment of direct or indirect greenhouse gas emissions; and
 - (d) assessment of greenhouse gas abatement or offset activities.
- (4) The Commissioner may vary carbon accreditation standards.
- (5) The Commissioner must cause carbon accreditation standards to be laid before each House of the Parliament within 10 sitting days of that House after carbon accreditation standards are prepared or varied and publish carbon accreditation standards on the Internet site of the Commission as soon as practicable after the standards are laid before each House of the Parliament.
- (6) On application from a corporation or other entity, the Commissioner may assess the corporation or entity against carbon accreditation standards.
- (7) Assessment of an entity against carbon accreditation standards must conform with the regulations under this Act, including but not limited to any prescribed method for measuring greenhouse gas emissions.

Division 4 – Reporting

26. Annual report

- (1) The Commissioner, on or before 30 November or such other date as may be prescribed, is to lay before each House of Parliament a report on the performance of its functions and exercise of its powers under this Act during the period of 12 months ending on the last preceding 30 June.
- (2) The report under subsection (1) may be combined with the report under section 36 of the *State Service Act 2000*.
- (3) The report under subsection (1) must include disclosure of contracts entered into under section 13(2)(b), including the total value of the contract, the general nature of the contract, and the name of the entity entered into a contract with.
- (4) If the Commissioner is unable to comply with subsection (1) for any reason other than that a House of Parliament is not sitting, the Commissioner must cause to be laid before each House of Parliament a statement specifying –
 - (d) the reasons for the failure to comply with that subsection; and
 - (e) an estimate of the day by which a copy of the annual report will be ready to be laid before each House of Parliament.
- (5) If the Commissioner is unable to comply with subsection (1) because a House of Parliament is not sitting, the Commissioner must –

- (a) forward a copy of the annual report to the Clerk of that House; and
- (b) within the next 7 sitting-days of that House, cause a copy of the annual report to be laid before that House.

27. Emissions reporting

- (1) The Commissioner, on or before 30 July or such other date as may be prescribed, is to lay before each House of Parliament a state emissions report for the previous calendar year and publish the state emissions report on the internet site of the Commission as soon as practicable after the plan is laid before each House of the Parliament.
- (2) A state emissions report is to contain –
 - (a) Tasmania’s total greenhouse gas emissions; and
 - (b) a breakdown of greenhouse gas emissions by sector, as defined by section 34(3) of this Act; and
 - (c) annual historic comparisons, where available, of at least 10 years; and
 - (d) a ranked list of the highest corporate emitters of greenhouse gases operating in Tasmania; and
 - (e) progress towards abatement targets; and
 - (f) any other details the Commissioner sees fit to include; and
 - (g) any other details that are prescribed.

28. Other reports

- (1) The Commissioner may, at any time, prepare a report on –
 - (a) any investigation, review or research conducted in the performance of the Commissioner's functions; or
 - (b) any other matter arising in the performance of those functions; or
 - (c) any other matter or issue for the purposes of advancing the objectives of the Commission or Commissioner.
- (2) A report under subsection (1) may include recommendations relating to –
 - (a) changes to written law, draft law, policy, practice or procedure; or
 - (b) changes of practice for individuals, government, a corporation or corporations, or any other entity;
 - (c) any other matter to Commissioner considers desirable to advance the objectives or fulfil the functions of the Commission or Commissioner.
- (3) The Minister or Committee may request that the Commissioner prepares a report under subsection (1) on a matter relevant to the Commission's functions.
- (4) The Commissioner may accept or reject a request under subsection (3), or may report on different matters related or somewhat related to the request under subsection (3).

(5) The Commissioner must provide the Minister with a copy of the report under subsection (1) within 7 days after the report is finalised.

(6) The Commissioner may cause a copy of a report under subsection (1) to be laid before each House of Parliament no sooner than 7 sitting-days after a copy of the report has been given to the Minister in accordance with subsection (5).

(7) The Commissioner, after providing a copy of a report to the Minister in accordance with subsection (5), may publish or distribute a report in any manner the Commissioner sees fit.

Division 5 – Miscellaneous

29. Delegation of powers and functions

The Commissioner may delegate any of their functions and powers under this Act, other than this power of delegation.

30. Obstruction

A person must not obstruct, or hinder, a person who is performing a function, or exercising a power, under this Part.

Penalty: Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

31. False reporting

A person must not, in providing any information or answering any question under this Part –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 20 penalty units.

32. General duty of confidentiality

- (1) The Commissioner, or any other person performing a function or exercising a power under this Part, has a general duty of confidentiality in relation to information gathered under section 22, or any other provision, of this Act.
- (2) Subsection (1) notwithstanding, the Commissioner or any other person performing a function or exercising a power under this Part, must publish information as this Part requires.
- (3) Subsection (1) notwithstanding, the Commissioner or any other person performing a function or exercising a power under this Part, may publish information if –
 - (a) Publishing the information would be advancing an objective or fulfilling a function under this Part; and
 - (b) they are of the reasonably held view that the public benefit of publishing the information outweighs any potential detrimental impacts on the entities or individuals to which the information relates, was obtained from, or whom may otherwise be detrimentally effected.

33. Protection from liability

(3) The Commissioner or any other person performing a function or exercising a power under this Part does not incur any personal liability, civil or criminal, in respect of any act done or omitted to be done in good faith in the performance or exercise, or purported performance or exercise, of that function or power.

(4) No civil or criminal proceedings are to be brought against the Commissioner or any other person performing a function or exercising a power under this Part, in respect of an act or omission referred to in subsection (1) without the leave of the Supreme Court, and the Supreme Court is not to give leave under this section unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted, or omitted to act, in bad faith.

PART 4 – EMISSIONS ABATEMENT

34. Interpretation of Part

(1) In this Part –

baseline in relation to a draft emissions abatement plan, emissions abatement plan, or amendment to an emissions abatement plan, means –

- (a) the emissions data for the whole state, and each sector, contained in the most recent emissions abatement plan final report; or
- (b) if there is not an emissions abatement plan final report, the most contemporary Tasmanian emissions data in the *Australian National Greenhouse Accounts: State and Territory Greenhouse Gas Inventories*, as published by the Commonwealth Government.

emissions data has the meaning conveyed by subsection (2).

sector has the meaning conveyed by subsection (3).

(2) Unless otherwise prescribed, in this Part measurement of and reporting on greenhouse gas emissions must be done in accordance with the most recently published *Australian National Greenhouse Accounts: State and Territory Greenhouse Gas Inventories*, as published by the Commonwealth Government.

(3) Unless otherwise prescribed, abatement targets under section 40 of this Act relate to each sector and key subsector as reported in the most recent *Australian*

National Greenhouse Accounts: State and Territory Greenhouse Gas Inventories at the time of preparation of the draft emissions abatement plan.

(4) Despite subsections (2) and (3), reporting on emissions, and abatement targets, must not account for sequestration.

35. Preparation of emissions abatement plan

(1) The Minister must before 1 August 2021, and before 1 August every four years after 2021, prepare a draft emissions abatement plan.

(2) An emissions abatement plan must relate to the period of four years starting on 1 January in the year following its preparation, and must contain measures to meet the abatement targets under this Act.

(3) An emissions abatement plan must contain an assessment of potential impacts on socio-economically disadvantaged communities, and must contain complementary measures to mitigate or alleviate these impacts.

(4) In preparing the draft emissions abatement plan the Minister must consult the Committee and the Commission.

(5) The Minister must make the draft emissions abatement plan available for public comment.

(6) The Minister must before 1 November 2021, and before 1 November every four years after 2021, finalise an emissions abatement plan.

(7) The Minister must cause the emissions abatement plan to be laid before each House of the Parliament within 10 sitting days of that House after the plan is finalised and

publish the emissions abatement plan on the Internet site of the Department as soon as practicable after the plan is laid before each House of the Parliament.

36. State to meet abatement targets

(1) In preparing a draft emissions abatement plan, emissions abatement plan, or an amendment to an emission abatement plan, the Minister must, unless otherwise indicated by this Part, ensure that –

- (a) the emissions abatement plan contains measures to meet all abatement targets; and
- (b) there is reasonable evidence that these measures are conducive to abatement targets being met within the legislated timeframe.

(2) The Minister, subject to this Part, must ensure that measures contained within the emissions abatement plan are implemented.

(3) Despite subsection (1) a draft emissions abatement plan, emissions abatement plan, or an amendment to an emission abatement plan is not required to contain measures to meet one or more abatement targets if there is sufficient evidence that setting or implementing measures would be unreasonable or unduly harmful.

(4) Without limiting the generality of subsection (3) a measure is unreasonable or unduly harmful if –

- (a) it is not possible, or no longer possible, to implement a measure; or
- (b) new evidence, or previously unconsidered evidence, indicates that the measure would not meaningfully progress the state towards an

abatement target; or

(c) implementing a measure would bear costs that can be reasonably considered to outweigh the benefits; or

(d) implementing a measure would cause wide-spread and unreasonable hardship, and there are no options to mitigate the impacts so as to prevent them from being wide-spread and unreasonable.

37. Report where abatement targets cannot be met

(1) If measures to meet an abatement target are not required under section 36(3), the Minister must, as soon as is practicable, prepare a report.

(2) A report under subsection (1) must outline –

(a) all measures considered to meet the relevant abatement target or targets; and

(b) the reasons why the measures are considered unreasonable or unduly harmful.

(3) A report under subsection (1) must be made available at the same time as the draft emissions abatement plan, the emissions abatement plan, or an amendment to the emission abatement plan to which it relates.

(4) The Minister must cause a report under subsection (1) to be laid before each House of the Parliament within 10 sitting days of that House after the report is prepared.

38. Amendments to emissions abatement plan

(1) The Minister may amend the emissions abatement plan from time to time.

- (2) Without limiting the generality of subsection (1), the emissions abatement plan may be amended if –
- (a) new abatement targets for the period covered by the emissions abatement plan are set; or
 - (b) as a result of a measure being abolished or varied by virtue of section 36(3); or
 - (c) in the event that progress towards abatement targets are unsatisfactory, to implement further measures.
- (3) The Minister must cause the amended emissions abatement plan to be laid before each House of the Parliament within 10 sitting days of that House after the amended emissions abatement plan is prepared.

39. Reporting on the emissions abatement plan

- (1) No earlier than twenty months, and no later than thirty months, after the tabling of an emissions abatement plan under section 35 of this Act, the Minister must cause an emissions abatement plan interim report to be laid before each House of the Parliament.
- (2) An emissions abatement plan interim report must –
- (a) detail the progress on measures contained in the emissions abatement plan; and
 - (b) detail progress that has been made towards the abatement targets set for the period to which the emissions abatement plan relates; and
 - (c) assess whether the government is on track to meet the abatement targets; and

- (d) contain any other information that is prescribed.
- (3) Within 6 months of the conclusion of a period to which an emissions abatement plan related, the Minister must cause an emissions abatement plan final report to be laid before each House of the Parliament.
- (4) An emissions abatement plan final report must –
 - (a) Report on the most contemporary emissions data; and
 - (b) detail the progress on measures contained in the emissions abatement plan; and
 - (c) assess whether the government has met the abatement targets under this Part; and
 - (d) contain any other information that is prescribed.

40. Abatement targets

- (1) The State has abatement targets.
- (2) The abatement targets for the end of each emissions abatement plan period are a 4% reduction on baseline levels for whole-of-state emissions, and for each sector.
- (3) The Minister may, by proclamation, establish abatement targets that have effect as well as, but not instead of or despite, the abatement targets in subsection (2).
- (4) Abatement targets proclaimed under subsection (3) are abatement targets for the purposes of this Act.

PART 5 – CARBON STORES

41. Minister to prepare carbon stores plan

- (1) The Minister must cause a draft carbon stores plan to be prepared on or before 30 August 2021.
- (2) The Minister must cause a carbon stores plan to be finalised within 120 days of a draft being prepared under subsection (1).
- (3) The carbon stores plan must contain measures relating to the period of 5 years following its finalisation.
- (4) Nothing in subsection (3) should be taken to prevent the carbon stores plan from containing provisions related to a period of greater than 5 years.
- (5) In preparing a draft carbon stores plan under subsection (1), the Minister must consult –
 - (a) the Committee; and
 - (b) the Commission; and
 - (c) any person, persons, or entity the Minister considers appropriate;
 - (d) any person, persons, or entity that may be prescribed.
- (6) Prior to finalising a carbon stores plan under subsection (2), the Minister must –
 - (a) cause a draft carbon stores plan to be published online; and
 - (b) provide at least 60 days for the public to provide submissions to the draft carbon stores plan; and

(c) do any other thing that may be prescribed.

(7) The Minister must cause a carbon stores plan to be laid before each House of the Parliament within 10 sitting days of that House after the plan is prepared.

(8) The Minister must publish a carbon stores plan on the Internet site of the Department as soon as practicable after the plan is laid before each House of the Parliament under subsection (7).

42. Contents of carbon stores plan

A carbon stores plan must contain policies to increase average carbon sequestered per year through human intervention in:-

- (a) all carbon stores; and
- (b) vegetation; and
- (c) soils; and
- (d) any other carbon store that may be prescribed.

43. Minister to review carbon stores plan

(1) The Minister must cause a review of the carbon stores plan to be prepared at least every 5 years after 30 August 2021.

(2) The Minister must cause an updated carbon stores plan to be finalised within 120 days of a review being prepared under subsection (1).

(3) In preparing a review of the carbon stores plan under subsection (1), the Minister must consult –

- (a) the Committee; and

- (b) the Commission; and
 - (c) any person, persons, or entity the Minister considers appropriate;
 - (d) any person, persons, or entity that may be prescribed.
- (4) Prior to finalising a carbon stores plan under subsection (2), the Minister must –
- (a) cause a a review of the carbon stores plan to be published online; and
 - (b) provide at least 60 days for the public to provide submissions to the review of the carbon stores plan; and
 - (c) do any other thing that may be prescribed.
- (5) The Minister must cause an updated carbon stores plan to be laid before each House of the Parliament within 10 sitting days of that House after the plan is prepared.
- (6) The Minister must publish an updated carbon stores plan on the Internet site of the Department as soon as practicable after the plan is laid before each House of the Parliament under subsection (10).

44. Minister to report on implementation of carbon stores plan

- (1) Prior to preparing a review of the carbon stores plan under section 43, The Minister must ensure that a report on the implementation and effectiveness of the past 5 years of operation of the current carbon stores plan is published.
- (2) A report under subsection (1) must –

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- (a) detail the progress on measures contained in the carbon stores plan; and
- (b) detail carbon sequestered through human intervention during the past 5 years of operation of the current carbon stores plan; and
- (c) assess the impact of natural disasters on carbon stores; and
- (d) contain any other information that is prescribed.

PART 6 – CLIMATE ADAPATATION

45. Minister to prepare state climate adaptation plan

- (1) The Minister must cause a draft state climate adaptation plan to be prepared on or before 30 August 2021.
- (2) The Minister must cause a review of the state climate adaptation plan to be prepared at least every 5 years after 30 August 2021.
- (3) The Minister must cause a state climate adaptation plan to be finalised within 120 days of a draft being prepared under subsection (1) or a review being prepared under subsection (2).
- (4) The state climate adaptation plan must contain measures relating to the period of 5 years following its finalisation under subsection (3).
- (5) Nothing in subsection (4) should be taken to prevent the state climate adaptation plan from containing provisions related to a period of greater than 5 years.
- (6) A state climate adaptation plan must include –
 - (a) modelling of the impacts of the climate emergency on Tasmania; and
 - (b) measures to mitigate the impacts of the climate emergency on Tasmania; and
 - (c) set out legislation relevant to climate adaptation that will be reviewed within the five year period following the finalisation of the state climate adaptation plan; and
 - (d) any other matter that may be prescribed.

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(7) The Minister must ensure that a review of the state climate adaptation plan includes a report on the implementation and effectiveness, as at the time the plan is prepared, of the past 5 years of operation of the current state climate adaptation plan.

(8) In preparing a draft state climate adaptation plan under subsection (1), or a review of the state climate adaptation plan under subsection (2), the Minister must consult –

(e) the Committee; and

(f) the Commission; and

(g) any person, persons, or entity the Minister considers appropriate;

(h) any person, persons, or entity that may be prescribed.

(9) Prior to finalising a state climate adaptation plan under subsection (3), the Minister must –

(i) cause a draft state climate adaptation plan or a review of the state climate adaptation plan to be published online; and

(j) provide at least 60 days for the public to provide submissions to the draft state climate adaptation plan or a review of the state climate adaptation plan; and

(k) do any other thing that may be prescribed.

(10) The Minister must cause a state climate adaptation plan to be laid before each House of the Parliament within 10 sitting days of that House after the plan is prepared.

(11) The Minister must publish a state climate adaptation plan on the Internet site of the Department as soon as practicable after the plan is laid before each House of the Parliament under subsection (10).

46. Councils to develop municipal climate adaptation plans

- (1) A council is to prepare a draft municipal climate adaptation plan to be prepared on or before 30 August 2022.
- (2) A council must cause a review of the municipal climate adaptation plan to be prepared at least every 5 years after 30 August 2022.
- (3) A council must cause a municipal climate adaptation plan to be finalised within 90 days of a draft being prepared under subsection (1) or a review being prepared under subsection (2).
- (4) A municipal climate adaptation plan must contain measures relating to the period of 5 years following its finalisation under subsection (3).
- (5) Nothing in subsection (4) should be taken to prevent a municipal climate adaptation plan from containing provisions related to a period of greater than 5 years.
- (6) A municipal climate adaptation plan must include—
 - (a) modelling of the impacts of the climate emergency on the municipal area; and
 - (b) measures to mitigate the impacts of the climate emergency on the municipal area; and
 - (c) any matter required under a state climate adaptation plan; and

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- (d) any other matter that may be prescribed.
- (7) A council is to ensure that a municipal climate adaptation plan is consistent with –
- (a) any relevant regional land use strategy; and
 - (b) each State Policy; and
 - (c) Tasmanian Planning Policies; and
 - (d) any state climate adaptation plan in force; and
 - (e) any other matter than may be prescribed.
- (8) Prior to finalising a municipal climate adaptation plan under subsection (3), a council must
- (a) cause a draft municipal climate adaption plan or a review of the municipal climate adaptation plan to be published online; and
 - (b) cause a notice that a draft municipal climate adaption plan or a review of the municipal climate adaptation plan are open for consultation in one or more local paper; and
 - (c) provide at least 30 days for the public to provide submissions to the draft municipal climate adaption plan or a review of the municipal climate adaptation plan; and
 - (d) hold at least two public meetings for the purposes of providing information, and seeking public input, regarding the draft municipal climate adaption plan or a review of the municipal climate adaptation plan; and
 - (e) do any other thing that may be prescribed.

(9) The general manager is to make a copy of a municipal climate adaptation plan available on the council’s website and for public inspection at the public office during ordinary office hours.

47. Councils may seek cost recovery

(1) A council may request in writing to the Treasurer that the State reimburse the council, in part or in full, for costs associated with the preparation of a draft municipal climate adaptation plan or a review of the municipal climate adaptation plan.

(2) The Treasurer, in relation to a request under subsection (1) may –

- (a) refuse the request; or
- (b) accept the request; or
- (c) offer any alternative form of assistance the Treasurer deems fit.

(3) In considering a request under subsection (1) the Treasurer may request any information the Treasurer deems relevant from the council.

(4) In considering a response to a request under subsection (2) the Treasurer is to have regard to –

- (a) the size of the council; and
- (b) the financial situation of the council; and
- (c) the financial situation of the State; and
- (d) the costs associated with the preparation of a draft municipal climate adaptation plan or a review of the municipal climate adaptation plan; and

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- (e) the extent of any assistance already provided by the State; and
- (f) any other matter the Treasurer deems relevant.

PART 7 – MISCELLANEOUS

48. Delegation

The Minister may delegate any of their functions and powers under this Act, other than this power of delegation.

49. Regulations

- (1) The Governor may, on the recommendation of the Minister, make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may –
 - (a) prescribe the method or methods for measuring greenhouse gas emissions for the purposes of this Act; and
 - (b) prescribe other measures and matters relating to the measurement of greenhouse gas emissions; and
 - (c) prescribe methods for measuring reductions in greenhouse gas emissions; and
 - (d) prescribe the method or methods for measuring carbon stored in vegetation, soil or any other carbon store for the purposes of this Act; and
 - (e) require any person to provide specified reports, returns, documents or other forms of information to the Minister, Commissioner or another person; and
 - (f) require any person to keep specified records, statistics or other information; and

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- (g) authorise the Minister, any person authorised by the Minister, or Commissioner to inspect any information required to be kept under the regulations and require any person to permit or facilitate any such inspection; and
 - (h) require the giving of notice before a specified activity or class of activities is commenced, and the notification of the occurrence of any specified event or class of events; and
 - (i) provide for the service of any specified notice or document; and
 - (j) regulate the release or publication of specified information obtained in the administration of this Act; and
 - (k) confer powers and functions on the Minister; and
 - (l) confer powers and functions on the Commissioner; and
 - (m) authorise any matter to be from time to time determined, applied or regulated by any specified person.
- (3) The regulations may provide for any matter by incorporating, either specifically or by reference and either wholly or in part and with or without modification, any code, standard or guideline, whether as in force at a particular time or as from time to time amended and whether published or issued before, on or after the day on which this Act commences.
- (4) The regulations may –

- (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 30 penalty units and, in the case of a continuing offence, a further fine not exceeding 3 penalty units for each day during which the offence continues.
- (5) Regulations may be developed for the purposes of meeting abatement targets.

50. Consequential amendments

The legislation specified in Schedule 6 is amended as specified in that Schedule.

51. Acts repealed and statutory rules rescinded

The Acts specified in Schedule 7 are repealed and the Statutory Rules specified in Schedule 7 are rescinded.

SCHEDULE 1 – MEMBERSHIP OF COMMITTEE

1. Vacancies

- (1) A member of the Committee may resign their office as a member by writing under their hand addressed to the Governor.
- (2) The office of a member of the Committee becomes vacant for any reason that would vacate their seat as a member of the Legislative Council or House of Assembly, as the case may be.
- (3) Where a vacancy occurs in the office of a member of the Committee, it shall be filled by appointment as provided in section 9 of this Act within the next ten sitting days of the House of Parliament by which they were appointed as a member of the Committee.
- (4) If a vacancy occurs when Parliament is not in session, the Governor may appoint a Member of the House of Parliament to temporarily fill the vacancy until it is filled as provided in section 9(2) of this Act.

2. Proceedings of Joint Committee

There shall be a chairperson and vice-chairperson of the Committee, who shall be elected by the members of the Committee at the first meeting of the Committee or as soon thereafter as is practicable.

3. Secretary of Committee

- (1) The President of the Legislative Council and the Speaker of the House of Assembly jointly are to appoint an officer of one of the Houses of Parliament to be the secretary of the Committee.

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(2) Notwithstanding section 21 of the *Acts Interpretation Act 1931*, in the event of the sickness or absence of the secretary, or their inability to act, the President of the Legislative Council and the Speaker of the House of Assembly may jointly select one of the officers of the Houses of Parliament to act in the place of the secretary for such period or until such date as the President and Speaker may jointly determine, and while so acting that officer shall, for all purposes, be regarded as the secretary.

3. Membership of Committee not an office of profit

The office of a member of the Committee is not an office of profit or emolument within the meaning of the *Constitution Act 1934* and the acceptance and holding of such an office does not –

- (a) render the holder of the office incapable of sitting or voting as a member of either House of Parliament; or
- (b) make void the election of the holder of the office as a member of either House of Parliament.

SCHEDULE 2 – MEETINGS OF COMMITTEE

1. Proceedings of Committee

- (1) Any four members of the Committee constitute a quorum of the Committee.
- (2) The chairperson, or, in the case of their absence or other disability, the vice-chairperson, shall preside at all meetings of the Committee at which they are present.
- (3) At a meeting of the Committee at which a quorum is present, the members in attendance may, in the absence of the chairperson and vice-chairperson, appoint one of their number then present to be temporary chairperson, and the temporary chairperson has, during the absence of the chairperson and vice-chairperson, all the powers of the chairperson.
- (4) At meetings of the Committee –
 - (a) the chairperson or, in their absence, the vice-chairperson, has a deliberative vote only; and
 - (b) when the votes on a question are equal the question passes in the negative.
- (5) Where a division is called for on any question, the names of the members voting shall be stated in the minutes and in the report of the Committee.
- (6) The Committee shall cause minutes of its proceedings to be kept.
- (7) The Committee may sit and transact business during any adjournment or recess, and may sit at such times and in such places, and conduct its proceedings in such manner, as it thinks proper.

2. Evidence before Committee

- (1) The Committee may summon witnesses to appear before it to give evidence and to produce documents, and for that purpose has all the power and authority of a Select Committee of the House of Assembly.
- (2) A witness who is summoned to appear, or who appears, before the Committee has the same protection and privileges as a witness in an action tried in the Supreme Court.
- (3) Except where it considers that there is good and sufficient reason to take evidence in private, all evidence shall be taken by the Committee in public.
- (4) Notwithstanding anything in subsection (3) of this section the Committee, when requested so to do by a witness, shall take in private any evidence that, in the opinion of the Committee, relates to a secret or confidential matter.
- (5) Subject to subsection (6) of this section, the Committee may, in its discretion, disclose or publish, or authorise the disclosure or publication, of evidence taken in private.
- (6) Where there is taken in private any evidence of a witness that the Committee is of opinion relates to a secret or confidential matter and the witness requests that that evidence be not published the Committee shall not, without the consent in writing of the witness, disclose or publish, or authorise the disclosure or publication of that evidence, unless it has already been lawfully published.
- (7) Where evidence is taken by the Committee in private no person, whether a member of the Committee or not, shall, without the authority of the Committee, given in

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writing by the chairperson thereof, disclose or publish that evidence unless it has already been lawfully published.

(8) References in this section to evidence shall be construed as including references to documentary evidence, and references therein to evidence given by a witness shall be construed as including references to any part of the evidence so given.

(9) Any person who discloses or publishes any evidence contrary to the provisions of this section is guilty of an offence.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

(10) An offence under subsection (9) of this section shall not be prosecuted without the consent of the Attorney-General.

(11) Section 2A of the *Parliamentary Privilege Act 1957* applies to any matter being examined by the Committee under this Act as it applies to the matters referred to in that Division.

3. Continuation of Proceedings

Where the Committee, as constituted at any time, has taken evidence in relation to any matter, but the Committee as so constituted has ceased to exist before reporting on that matter, the Committee as next constituted may consider that evidence as if it had been given before it.

4. Witnesses' expenses

Every witness appearing before the Committee to give evidence shall be entitled to be paid such witnesses' fees and travelling expenses as the Chairperson or Vice-

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Chairperson thinks fit to allow in accordance with a scale prescribed by the Governor.

SCHEDULE 3 – MEMBERSHIP OF BOARD

1. Interpretation

In this Schedule –

member means a member of the Board and includes an acting member.

2. Term of office

(1) A member is appointed for the period, not exceeding 3 years, as is specified in the member's instrument of appointment and, if eligible, may be reappointed.

(2) A member may serve any number of terms but not more than 3 terms, of whatever duration, in succession.

3. Holding other office

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

(a) holding that office and also the office of a member; or

(b) accepting any remuneration payable to a member.

4. State Service employment

A person may not hold the office of member in conjunction with State Service employment.

5. Remuneration and conditions of appointment

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.
- (2) A member holds office on such conditions in respect of matters not provided for by this Act as are specified in the member's instrument of appointment.

6. Vacation of office

- (1) A member vacates office if they –
 - (a) die; or
 - (b) resign by notice given to the Minister; or
 - (c) are removed from office under subclause (2) or (3).
- (2) The Minister may recommend to the Governor that a member be removed from office if the member –
 - (a) is absent from 3 consecutive meetings of the Board without the permission of the chairperson; or
 - (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
 - (c) is convicted, in Tasmania or elsewhere, of a crime or an indictable offence; or
 - (d) fails to disclose a pecuniary interest as required under clause 8 of Schedule 2 ; or
 - (e) has benefited from, or claimed to be entitled to benefit from, a contract made by or on behalf of

the Board, other than a contract for a good or service ordinarily supplied by the Board and supplied on the same terms as that good or service is ordinarily supplied to other persons in the same situation.

(3) The Minister may recommend to the Governor that a member be removed from office if the Minister is satisfied that the member is unable to perform adequately or competently the duties of office.

(4) A member must not be removed otherwise than in accordance with this clause.

7. Filling of vacancies

If the office of a member becomes vacant, the Minister may appoint a person to the vacant office for the remainder of that member's term of office.

8. Validation of proceedings

(1) An act or proceeding of the Board or of a person acting under any direction of the Board is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.

(2) All acts and proceedings of the Board or of a person acting under a direction of the Board are, despite the subsequent discovery of a defect in the appointment of a member or that any other person was disqualified from acting as, or incapable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Board had been fully constituted.

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9. Presumptions

In any proceeding by or against the Board, unless evidence is given to the contrary, proof is not required of –

- (a) the constitution of the Board; or
- (b) the appointment of any member.

SCHEDULE 4 – MEETINGS OF BOARD

1. Interpretation

In this Schedule –

member means a member of the Board and includes an acting member.

2. Convening of meetings

(1) The chairperson, after giving each member reasonable notice of a meeting –

(a) may convene a meeting at any time; and

(b) must convene a meeting when requested to do so by 3 or more other members.

(2) If the chairperson is absent from duty or otherwise unable to perform the duties of the office, a meeting may be convened, after reasonable notice of the meeting has been given of the meeting, by –

(a) 3 or more other members; or

(b) a person authorised by the Board to do so.

(3) For the purposes of subclauses (1) and (2), what constitutes reasonable notice is to be determined by the Board.

3. Presiding at meetings

(1) The chairperson is to preside at all meetings of the Board at which they are present.

(2) If the chairperson is not present at a meeting of the Board, a member elected by the members present at the meeting is to preside.

4. Quorum and voting at meetings

(1) At a meeting of the Board, a quorum is constituted by a majority of the total number of members appointed.

(2) A meeting of the Board at which a quorum is present is competent to transact any business of the Board.

(3) At a meeting of the Board –

(a) the member presiding has a deliberative vote only; and

(b) a question is decided –

(i) by a majority of votes of the members present and voting; or

(ii) in the negative if there is an equality of votes of the members present and voting.

(4) At a meeting of the Board where a member is excluded from being present and taking part in the consideration and decision of the Board in respect of a matter, a quorum for the purposes of considering and making a decision in respect of that matter is constituted by the number of members specified as constituting a quorum in subclause (1) less the number of members so excluded.

5. Conduct of meetings

- (1) Except as provided by this Act, the Board may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.
- (2) The Board may permit members to participate in a particular meeting or all meetings by –
 - (a) telephone; or
 - (b) video conference; or
 - (c) any other means of communication approved by the Board.
- (3) A member who participates in a meeting under a permission granted under subclause (2) is taken to be present at the meeting.
- (4) Without limiting subclause (1), the Board may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

6. Absences

- (1) A member is to take reasonable steps to inform the chairperson if they will, or are likely to, be unable to attend a meeting.
- (2) The chairperson may permit a member to be absent from more than 3 consecutive meetings but such permission is not to be granted retrospectively.
- (3) To avoid doubt, a permission under subclause (2) is taken not to be retrospective if it is granted at any time before the third consecutive meeting that the member does not attend.

7. Minutes

The Board is to keep accurate minutes of its meetings.

8. Disclosure of interests

(1) If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to the Board.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding one month, or both.

(2) Unless the Board otherwise determines, a member who has made a disclosure under subclause (1) in respect of a matter must not –

(a) be present during any deliberation of the Board in respect of the matter; or

(b) take part in any decision of the Board in respect of the matter.

(3) For the purpose of making a determination under subclause (2), the member to whom the determination is to relate must not –

(a) be present during any deliberation of the Board for the purpose of making the determination; or

(b) take part in making the determination.

(5) Subclause (1) does not apply in respect of a contract for goods or services supplied by the Board if those goods or services are ordinarily supplied by the Board and are

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supplied on the same terms as they are ordinarily supplied to other persons in the same situation.

9. General procedure

Except as provided by this Act, the Board may regulate its own proceedings.

10. Presumptions

In any proceeding by or against the Board, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the Board; or
- (b) the presence of a quorum at any meeting of the Board.

**SCHEDULE 5 – GENERAL PROVISIONS AS TO THE
COMMISSIONER**

1. Term of Office

- (1) The Commissioner holds office for such term, not exceeding 5 years, as is specified in the instrument of appointment.
- (2) A person who has been appointed to the office of Commissioner may from time to time be reappointed for a single further term, not exceeding 5 years, as may be specified in the instrument of appointment.

2. Remuneration and conditions of service

- (1) The remuneration and allowances payable to the Commissioner are to be specified in their instrument of appointment or otherwise determined by the Governor.
- (2) In addition to the salary paid under this Act, the Commissioner is entitled to be paid any travelling allowances and other allowances as are applicable to a Head of a State Service Agency.
- (3) The Commissioner is entitled to the same leave of absence, whether recreation leave or leave of any other kind, as that to which the Commissioner would be entitled under the *State Service Act 2000*, if the Commissioner were a State Service employee, but only in the circumstances and subject to the conditions that are applicable in respect of such an employee.
- (4) A person appointed as Commissioner is taken to be an employee for the purposes of the *Long Service Leave (State Employees) Act 1994* and the *Public Sector Superannuation Reform Act 2016*.

Safe Climate Act 2021
Act No. of 2021

s. 3 Schedule 5 – General Provisions as to the Commissioner

(5) The allowances which the Commissioner is entitled to be paid under this section are to be paid out of the Consolidated Fund which, to the necessary extent, is appropriated accordingly.

(6) A State Service officer or State Service employee appointed as Commissioner is entitled to retain all existing and accruing rights as if the service of that person as Commissioner were a continuation of service as a State Service officer or State Service employee.

(7) Where a person ceases to hold office as Commissioner and becomes a State Service officer or State Service employee, the service of that person as Commissioner is to be regarded as service in the State Service for the purpose of determining rights as a State Service officer or State Service employee.

3. Other employment

(1) The Commissioner must not, except so far as authorised so to do by another enactment or by resolutions of both Houses of Parliament—

(f) hold any appointment (other than that of Commissioner) or be a member of, or of the governing body of, any State entity; or

(g) engage in paid employment outside the duties of the Commission.

4. Appointment not invalid due to defect or irregularity

An appointment of a person as Commissioner is not invalid merely because of a defect or irregularity in relation to that appointment.

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5. State Service Act does not apply

The *State Service Act 2000* does not apply in relation to the Commissioner.

6. Vacation of office

- (1) A person appointed as Commissioner is taken to vacate the office of Commissioner if they—
 - (a) die; or
 - (b) resign the office by written notice to the Governor; or
 - (c) are removed from office under this section.
- (2) The Commissioner is not to be removed from office unless a resolution for that removal is passed by both Houses of Parliament.
- (3) At any time when Parliament is not sitting the Governor may suspend the Commissioner from office for incapacity, incompetence or misbehaviour, in which case the person holding office as Deputy Commissioner is to act in the office of Commissioner.
- (4) Where the Governor suspends the Commissioner from office, the Governor is to cause to be laid before each House of Parliament, within the next 7 sitting-days of that House after that suspension, a full statement of the reason for that suspension.
- (5) If a resolution is presented to the Governor by either House of Parliament, within 20 sitting-days of that House after a statement under subsection (4) is laid before it, requesting that the Commissioner be restored to that office, the Commissioner is to be restored accordingly.

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s. 6 Schedule 5 – General Provisions as to the Commissioner

(6) If no such resolution is so presented, the Governor, within 30 days of the expiration of the period mentioned in subsection (5), is to confirm the suspension, and declare the office of Commissioner to be vacant, and that office becomes vacant.

Safe Climate Act 2021
Act No. of 2021

s. 6 Schedule 6 – Consequential Amendments

SCHEDULE 6 – CONSEQUENTIAL AMENDMENTS

Financial Management Act 2016

1. Schedule 1 is amended by inserting after

Department of Treasury and Finance	Secretary of the Department
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In Part 1 the following item:

Safe Climate Commission	The Safe Climate Commissioner appointed in accordance with section 17 of the <i>Safe Climate Act 2021</i>
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State Service Act 2000

2. Schedule 1 is amended by inserting after

Agency	Head of Agency
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In Part 2 the following item:

Safe Climate Commission	Safe Climate Commissioner
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Safe Climate Act 2021
Act No. of 2021

s. 6 Schedule 7 – Acts Repealed and Statutory Rules Rescinded

**SCHEDULE 7 – ACTS REPEALED AND STATUTORY RULES
RESCINDED**

Climate Change (State Action) Act 2008 (No. 36 of 2008)

Climate Change (Greenhouse Gas Emissions) Regulations 2012 (No. 9
of 2012)

Proclamation under the Climate Change (State Action) Act 2008 (No.
134 of 2008)