

CLAUSE NOTES

Safe Climate Bill 2021

PART 1 - PRELIMINARY

- Clause 1: Short title**
This clause provides that, once passed, the bill will be cited as the *Safe Climate Act 2021*.
- Clause 2: Commencement**
All provisions of this Bill will commence 60 days after Royal Assent.
- Clause 3: Interpretation**
Provides definitions for key terms used throughout the Act.
- Clause 4: Acknowledgement of climate emergency**
Provides an acknowledgement of the climate emergency.
Members of the Safe Climate Committee appointed under clause 9, and Board members of the Safe Climate Commission appointed under clause 15 must understand and accept the acknowledgement contained in this clause in order to be eligible for appointment.
- Clause 5: Principles**
Sets out the principles through which the Act should be interpreted.
- Clause 6: Objects of Act**
Sets out the statutory objectives of the Act.
- Clause 7: Application of Act**
Provides that, except where the contrary intention appears, this Act will not exclude or affect the operation of any other Act.
- Clause 8: Act binds Crown**
Provides that the Crown is bound by the Act.

PART 2 – SAFE CLIMATE COMMITTEE

Clause 9: Constitution of Safe Climate Committee

Establishes the Joint Standing Committee on a Safe Climate (the Committee), and provides for 3 members from the Legislative Council and 3 members from the House of Assembly.

Provides that each political party represented in the House of Assembly may have a member on the committee. In the event that there are more than three political parties represented, ensures priority is given to the three parties with the most elected members in the House.

Requires understanding and accepting the acknowledgement of climate emergency contained in clause 4 in order to be eligible for membership of the committee.

Clause 10: Functions of Committee

Sets out the functions of the Joint Standing Committee on a Safe Climate, and requires the Committee to have reference to contemporary climate science in the performance of its functions.

PART 3 – SAFE CLIMATE COMMISSION

Division 1 – Safe Climate Commission

Clause 11: Establishment of Safe Climate Commission

Establishes the Safe Climate Commission (the Commission).

Clause 12: Objectives and Functions of Commission

This clause establishes the objectives and functions of the Commission. The objectives of the Commission are to contribute towards –

- reducing greenhouse gas emissions
- protecting and increasing carbon stores
- progressing climate adaptation measures

The functions of the Commission are to –

- to provide advice and promote actions to contribute to climate mitigation and adaptation
- to develop materials, programs and partnerships to encourage contributions to climate mitigation and adaptation

- to commission, conduct and publish research relating to climate projects and the impact of the climate emergency
- to encourage public participation in climate change advocacy and promote the right of peaceful protest
- to advance the objectives of the Act and of the Commission
- any other functions under the Act
- any other functions prescribed by regulations

The objectives and functions of the Commission inform the interpretation of the Act and the exercising of powers by the Commission.

Clause 13: Powers of Commission

This clause establishes the broad powers of the Commission to do all this authorised by the Act, or necessary or convenient or the performance of their functions, including general powers to deal with property, assets and contracts. These provisions mirror clauses for similar independent statutory authorities.

Clause 14: Independence of Commission

Stipulates that Commission is independent from Government. This provision mirrors clauses for similar independent statutory authorities.

Division 2 – Board and Staff of Commission

Clause 15: Board of Commission

Establishes the Board of the Commission, and sets out that the board is to be between six and eight members, at least three of which have experience in climate science, and which collectively have experience in all or most of the following areas –

- legal practice;
- local government and planning;
- public communication;
- public policy;
- emergency response;
- environmental regulation.

This clause requires the Minister to consult the Committee before recommending appointments to the Governor.

Clause 16: Role and powers of Board

Sets out the role of the board to provide guidance to facilitate the functions and powers of the Commission and to monitor and report to the Minister and Committee on legislation relevant to the Commission.

Clause 17: Appointment of Commissioner

This clause establishes the role of the Commissioner as the chief executive officer of the Commission, and requires the Minister to consult the Committee before recommending an appointment to the Governor.

Clause 18: Deputy Commissioner

Provides for the appointment of a Deputy Commissioner, and establishes that the Deputy Commissioner is to be treated as the Commissioner for the purposes of the Act while acting in that role.

Clause 19: Staff

Sets out that staff may be employed by the Commission in accordance with the *State Service Act 2000*.

Division 3 – Functions and Powers of Commissioner

Clause 20: Functions of Commissioner

Sets out that the Commissioner's role is to –

- to be a public advocate for climate action
- assess, evaluate and comment on government climate policy
- report on matters relevant to the climate emergency
- to advise and comment on government compliance with the Act
- to advocate for policy and legislative reform
- to advance the objectives of the Act and the Commission
- any other functions the Commissioner has under law
- any other functions prescribed by regulation

Clause 21: Powers of Commissioner

Establishes that the Commissioner has the power to do anything explicitly authorised by law, and anything necessary or convenient or the

performance of their functions. These provisions mirror clauses for similar independent statutory authorities.

Clause 22: Power to gather information

This clause specifically empowers the Commissioner to gather information from any entity for the purposes of performing their functions. These powers are necessary to report on emissions data and compliance with the Act.

The powers are broad, but are constrained by the requirement for the Commissioner to consider whether a request for information is reasonable having regard to –

- the likely relative contribution of the entity to state greenhouse gas emissions
- any obligations or agreements the entity has under the Act
- the relative climate adaptation responsibilities of the entity
- the likely resource requirements to produce the information requested relative to the entity's available resources.

The use of information gathered under this clause may also be constrained by the general duty of confidentiality established under clause 32.

Clause 23: Citizen juries

This clause sets out a process for the Commissioner to convene citizen juries. Some of the matters a citizen jury may be convened to do include to –

- resolve in favour of, or in opposition to, a policy or bill
- determine whether or not the measures in an emissions abatement plan are sufficient to meet the abatement targets
- determine whether or not a report prepared under section 37 of this Act sufficiently meets the standard required under section 36(3) of the Act.

Clause 24: Voluntary emissions agreements

This clause empowers the Commissioner to engage with corporations to develop voluntary emissions agreements for the purposes of reducing greenhouse gas emissions.

This clause allows the Commissioner to make a request the Minister to allow for incentives to be offered for the development of voluntary emissions agreements.

If incentives are offered as part of voluntary emissions agreements, provisions may be included in the agreement for the recovery of incentives if targets are not met.

Clause 25: Carbon accreditation standards

Provides that the Commissioner may develop and amend carbon accreditation standards, which must be laid before each House of Parliament.

This clause also provides that entities may apply to be assessed for accreditation for standards developed under this section.

Division 4 – Reporting

Clause 26: Annual report

This clause establishes a requirement for the Commissioner to prepare an annual report, which may be combined with a report under section 36 of the *State Service Act 2000*. This clause also requires the report to include details of contracts the Commission has entered into. The annual report must be tabled in each House of Parliament.

Clause 27: Emissions report

The Commissioner must develop, and table in each House of Parliament, a state emissions report for the previous calendar year containing –

- Tasmania’s total greenhouse gas emissions
- a breakdown of greenhouse gas emissions by sector
- annual historic comparisons, where available, of at least 10 years
- a ranked list of the highest corporate emitters of greenhouse gases operating in Tasmania
- progress towards abatement targets
- any other details the Commissioner sees fit to include
- any other details that are prescribed by regulation

Clause 28: Other reports

Provides the Commissioner with general powers to prepare reports relevant to the Commission’s role.

Division 5 – Miscellaneous

Clause 29: Delegation of powers and functions

Provides that the Commissioner may delegate any of their functions or powers (other than the power of delegation provided for in this clause).

Clause 30: Obstruction

Establishes that it is an offence to obstruct a person performing a function under this Part.

Clause 31: False reporting

Establishes that it is an offence to knowingly provide false information under this Part.

Clause 32: General duty of confidentiality

Establishes a general duty of confidentiality to the Commissioner and Commission, but allows for disclosure in circumstances where the public benefit outweighs any potential detrimental impact.

Clause 33: Protection from liability

Provides protection from liability where an officer acting under this part acts in good faith. This protection may be overturned by the Supreme Court if there is substantial ground that a person acted in bad faith.

PART 4 – EMISSIONS ABATEMENT

Clause 34: Interpretation of Part

Provides definitions for this Part, including standards for measurement of and reporting on greenhouse gas emissions.

Clause 35: Preparation of emissions abatement plan

This clause requires the drafting of a commission abatement plan every four years, relating to the forthcoming four-year period. This plan must contain measures to meet abatement targets. This clause also requires an assessment of potential impacts on socio-economically disadvantaged communities, and must contain complementary measures to mitigate or alleviate these impacts.

Clause 36: State to meet abatement targets

Clause establishes a requirement for an abatement plan to contain evidenced-measures to meet all abatement targets, unless there is evidence that this would be unreasonable or unduly harmful. A measure is unreasonable or unduly harmful if –

- it is not possible
- new evidence, or previously unconsidered evidence, indicates that the measure would not meaningfully progress the state towards an abatement target
- implementing a measure would bear costs that can be reasonably considered to outweigh the benefits
- 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

Clause 37: Report where abatement targets cannot be met

This clause requires a report to be produced if measures to meet abatement targets are not required because they would be unreasonable or unduly harmful.

Clause 38: Amendments to emissions abatement plan

Allows for the Minister to amend the emission abatement plan.

Clause 39: Reporting on the emissions abatement plan

This clause requires an emissions abatement plan interim report to be produced between twenty and thirty months after the preparation of an emission abatement plan, and an emissions abatement plan final report to be produced within 6 months of the conclusion of an emissions abatement plan.

Clause 40: Abatement targets

This clause sets abatement targets of 4% over four years for each sector, and allows for further targets to be set by proclamation.

PART 5 – CARBON STORES

Clause 41: Minister to prepare carbon stores plan

Clause requiring the development of a carbon stores plan. The plan must be developed in consultation with the Committee and Commission, and must undergo a public consultation of at least 60 days.

Clause 42: Contents of carbon stores plan

Requires a carbon stores plan to contain policies to increase average carbon sequestered per year through human intervention in –

- all carbon stores
- vegetation
- soils
- any other carbon store prescribed by regulation

Clause 43: Minister to review carbon stores plan

Requires a carbon stores plan to be reviewed every 5 years.

Clause 44: Minister to report on implementation of carbon stores plan

Requires a review of a carbon stores plan under clause 44 to be accompanied by a report on the effectiveness of the current plan.

PART 6 – CLIMATE ADAPTATION

Clause 45: Minister to prepare state climate adaptation plan

Requires the Minister to develop a state climate adaptation plan, and to review the plan, and report on its effectiveness every 5 years. The plan must be developed in consultation with the Commission and Committee, and undergo public consultation for no less than 60 days. A state climate adaptation plan must include –

- modelling of the impacts of the climate emergency
- measures to mitigate the impacts of the climate emergency
- 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
- any other matter prescribed by regulation

Clause 46: Councils to develop municipal climate adaptation plans

Requires each council to develop a municipal climate adaptation plan, and to review the plan every 5 years. The plan must undergo public consultation for no less than 30 days. A municipal climate adaptation plan must include –

- modelling of the impacts of the climate emergency
- measures to mitigate the impacts of the climate emergency
- any matter required by the state climate adaptation plan
- any other matter prescribed by regulation

Clause 47: Councils may seek cost recovery

This clause sets out a process for a council to request the State to reimburse costs associated with the development of a municipal climate adaptation plan. The Treasurer may accept, refuse, or offer alternative assistance.

PART 7 – MISCELLANEOUS

Clause 48: Delegation

Provides that the Minister may delegate any of their functions or powers under this Act (other than the power of delegation provided for in this clause).

Clause 49: Regulations

Provides regulation-making powers for this Act, including the power to make offences under regulations.

Clause 50: Consequential amendments

Clause giving effect to the amendments contained in schedule 6.

Clause 51: Acts repealed and statutory rules rescinded

Clause giving effect to the repeals and rescissions contained in schedule 7.

SCHEDULE 1 – MEMBERSHIP OF COMMITTEE

Provisions relating to the membership of the committee, including resignations, vacancies, and appointments to fill vacancies.

SCHEDULE 2 – MEETINGS OF COMMITTEE

Provisions governing the proceedings of the Committee, including quorums, committee roles, proceedings, evidence before the committee, and payment of witness expenses.

SCHEDULE 3 – MEMBERSHIP OF BOARD

Provisions relating to the membership of the board, including matters relating to holding and vacating office.

SCHEDULE 4 – MEETINGS OF BOARD

Provisions governing the meetings of the board, including conduct during meetings, meeting proceedings, absences, and disclosure of interests.

SCHEDULE 5 – GENERAL PROVISIONS AS TO THE COMMISSIONER

General provisions relating to the office of Commissioner, including remuneration, terms of office, other employment, and vacation of office.

SCHEDULE 6 – CONSEQUENTIAL AMENDMENTS

Sets out amendments to the *Financial Management Act 2016* and *State Service Act 2000* related to the establishment of the Commission.

SCHEDULE 7 – ACTS REPEALED AND STATUTORY RULES RESCINDED

Sets the *Climate Change (State Action) Act 2008* and subordinate legislation under this Act to be repealed and rescinded respectively.