



# THE HON GREG COMBET AM MP Parliamentary Secretary for Climate Change

## Carbon Pollution Reduction Scheme Bill 2009

### Second Reading Speech

14 MAY 2009

The Carbon Pollution Reduction Scheme (CPRS) is one of the most significant environmental and economic reforms in the history of our nation.

The Rudd Government accepts the science on the issue of climate change – increasing concentrations of carbon pollution in our atmosphere are causing global warming.

Global action is needed to reduce carbon pollution to avoid the dangerous impacts of climate change.

Australia must play its part in this international action. Tackling the challenge of climate change is one of the Government's highest priorities.

To achieve this the Rudd Government is committed to three pillars of action on climate change; reducing Australia's emissions, adapting to the effects of climate change we cannot avoid, and playing a strong role in the global effort.

As part of the first pillar of action the Government is committed to achieving a targeted reduction in our emissions through the implementation of a 'cap and trade' emissions trading scheme.

The CPRS will reduce Australia's emissions by placing a market price on carbon pollution, and link our efforts with those of other countries.

Through the CPRS Australia will address the need to reduce carbon pollution and the environmental impact of climate change, and at the same time support the transition in our economy to a low pollution future.

#### **The need for action**

Mainstream scientific opinion is clear. Climate change is real and there is a high probability of serious consequences if greenhouse gas emissions are not restrained.

The science tells us that unmitigated climate change is very likely to result in environmental and social disruption, including significant species extinctions around the globe, threats to food production and severe health impacts, with dramatic increases in morbidity and mortality occurring from heatwaves, floods and droughts.

Australia is highly exposed to the impacts of climate change. The effects on Australia's environment – and economy – will be serious. The health of our population, the security of our water and energy supplies, and impacts on coastal communities and infrastructure all face unprecedented tests.

If we don't act, average temperatures across Australia are expected to rise by just over 5°C (compared to 1990) by 2100. To put this in perspective, a 1°C rise in temperature risks a 15 per cent reduction in stream flow in the Murray-Darling Basin, Australia's biggest river system.

The Government accepts the advice of the Garnaut Report that it is in Australia's national interest to achieve a global agreement that will stabilise greenhouse gases in the atmosphere at a concentration of 450 parts per million carbon dioxide equivalent or lower. This is the level above which we face significant risk of dangerous climate change – that is, significant damage to our environment, our economy and our way of life.

That is why the Government has said it will commit to a national target to reduce net greenhouse emissions 25 per cent by 2020 over 2000 levels if there is an ambitious global agreement to achieve the 450 parts per million goal.

Australia can play its part in reducing greenhouse gas emissions while continuing to grow the economy.

Last year, the Treasury conducted one of the largest and most sophisticated economic modelling projects ever undertaken in Australia.

Like the Stern Report, this modelling concluded that responsible action now is less expensive than later action. The modelling found that under a variety of scenarios, significant cuts could be made to emissions at a cost to potential annual average economic growth of around one tenth of a percentage point. And this doesn't take account of the benefits of avoided climate change - that is minimising costs such as lower agricultural productivity, damaged infrastructure, impacts on health and so on.

This modelling shows that all major employment sectors in the Australian economy continue to grow out to 2020 as we reduce our emissions through cap and trade, including the most emissions intensive trade-exposed industries.

The Government is of course very conscious of the global recession, and has been careful to ensure that the Carbon Pollution Reduction Scheme is economically responsible.

There will be a phased introduction to the Scheme. Mandatory obligations will commence one year later than originally proposed, on 1 July 2011.

A fixed price phase will apply between 1 July 2011 and 30 June 2012. During the fixed price phase, each carbon pollution permit will cost \$10.

Substantial assistance will be provided to emissions-intensive trade-exposed industries – including a Global Recession Buffer of additional assistance for the first 5 years of the scheme.

In addition, eligible businesses will receive funding to undertake energy efficiency measures in 2009-10 as part of a \$200 million tranche of the Climate Change Action Fund. This is part of nearly \$13 billion in a range of programs to increase energy efficiency and to research, develop, commercialise and deploy low carbon transport and energy solutions, and renewable sources of energy production.

These and other features of the Scheme ensure that it will set Australia on the path to a low-carbon economy in an economically responsible way.

The Government recognises that Australians should have the opportunity to do their bit to reduce Australia's emissions. This Bill will ensure the Government is able to take account of the individual Australians' voluntary reductions in carbon pollution when setting Scheme caps.

It is important that the bills to enact the Scheme be passed this year – both to maximise the chances of a global deal at Copenhagen in December, and to provide business certainty.

For Copenhagen, passage of this bill would ensure that Australia has a mechanism in place to meet its international commitments. The Government could agree to a target at Copenhagen, knowing that the country has the capacity to deliver on that target in an economically responsible way.

To major developing countries, it would send the signal that Australia is serious about delivering the emissions reductions to which we have committed – and therefore encourage action from them.

For all nations, it will help build confidence that, even in one of the world's most resource-intensive economies, we can start to reduce our emissions while continuing to grow our economy.

For the business community investment certainty is essential if we are to foster continuing investment and growth in our economy and jobs. The CPRS will provide that.

For example, our energy and resources sectors engage in investment decisions with a horizon of anywhere from 15 to 30 years – a time period in which there can be no doubt carbon pricing of some form will be introduced into the domestic and international economy.

Uncertainty about the passage of the CPRS generates uncertainty over these long term investments. Some of these investments are worth billions of dollars and will result in thousands of new jobs – provided that certainty can be delivered. The converse, as Heather Ridout of the Australian Industry Group has said, is that “uncertainty is death for business.”

The need for investment certainty is the reason why the Business Council of Australia, among others, has called for a bipartisan approach and the passage of these bills this year. Indeed, the CEO of the BCA, Katie Lahey, said last week:

*“To drag on the debate whilst we have got this global financial crisis is just one more complexity that business has got to factor into its planning cycle, and for some businesses it could be the straw that breaks the camel's back.”*

### **Objective of the CPRS**

The main policy objective of the CPRS is to reduce greenhouse gas emissions, and to do so at the least cost to the Australian economy.

There is a key reason why a cap and trade scheme delivers emissions reductions at least cost, and that is the flexibility it gives to individual firms.

It is important to appreciate that a cap and trade scheme works by reducing pollution across the economy rather than dictating exactly where and when this occurs. An economy-wide emissions cap is set by regulations and an independent regulator – in this case, the Australian Climate Change Regulatory Authority – auctions or allocates emissions units up to that cap. Liable firms must obtain, and surrender to the Authority, emissions units equal to their emissions in each financial year.

This model provides flexibility and minimises costs. The government does not dictate to individual firms how emissions should be reduced, or by how much. That judgment is left to individual firms, taking into account the price of permits and their assessment of emissions reductions opportunities.

In short, this is an incentives-based model rather than one based on prescriptive directions. There is an economy-wide incentive to reduce emissions, which over time drives the uptake of low carbon technologies. This will place the economy in a better position over the longer term and avoid the need for large and sudden adjustments in the carbon intensity of the economy.

We should not ignore the international trend towards cap and trade schemes. By introducing the Carbon Pollution Reduction Scheme, Australia will join other developed nations in the fight to reduce carbon pollution. Emissions trading is already underway in 27 European countries. New Zealand has passed legislation to introduce a cap and trade scheme. In the United States, President Obama has reinforced his election commitments to mid and long term carbon pollution reduction goals and has called on Congress to send him legislation to establish a cap and trade system, similar to that we are establishing with the CPRS.

### **Key features of the Bill**

I would like to outline some of the main features of the bill.

#### Caps and gateways

As I have said, the CPRS is a 'cap and trade' scheme. This involves setting a greenhouse gas emissions cap for a particular year and issuing units, equal to one tonne of carbon pollution, within that cap.

Scheme caps will be lower than the emissions path required to meet the national targets because some emissions sources – emissions from agriculture and deforestation – are not covered by the Scheme, and because direct emissions from facilities are only covered if they exceed specified thresholds.

To provide certainty, the Minister will be required to take all reasonable steps to ensure that regulations to specify scheme cap numbers for 2012-13, 2013-14 and 2014-15 are made before 1 July 2010. Caps beyond this point will be set annually to provide certainty over a five-year horizon at all times.

To provide further guidance to liable entities and participants in the carbon market more generally, national scheme gateways may be prescribed for years beginning on and after 1 July 2015. A gateway is a range, comprising an upper bound and a lower bound of emissions, expressed in terms of tonnes of carbon dioxide equivalent, for a particular year. The Minister is required to take all reasonable steps to ensure that the scheme caps are within the range specified for the relevant year.

The Rudd Government has listened to Australian households who have raised concerns that their individual efforts to reduce emissions will not be adequately taken into account under the CPRS. The bill provides for the Minister to take into account voluntary action in the setting of caps and gateways. As a matter of policy, the Government is committed to taking account of uptake of GreenPower in setting caps. The Government will take additional GreenPower purchases, above 2009 levels, into account in setting future scheme caps. A range of other indicators of voluntary action may also be taken into account. The Explanatory Memorandum to this bill outlines in detail how the Government intends to implement this policy.

The Minister is required to report annually to Parliament on reasons for her recommendations in relation to caps and gateways, and as a matter of policy will set out how voluntary action has been taken into account.

### LIABLE ENTITIES

The Scheme applies liability in two main ways.

First, liability generally arises where the greenhouse gases emitted from the operation of a facility has a carbon dioxide equivalence of 25,000 tonnes or more per year.

In relation to landfill facilities, there has been an important change from the exposure draft bill released for public comment. The Government has accepted the argument from the waste sector that 'legacy waste' emissions – that is, emissions from waste that was placed in landfill prior to the start of the Scheme – should not be covered by the Scheme. Also, where a landfill facility is within a prescribed distance from a landfill facility that has a carbon dioxide equivalence of 25,000 tonnes or more, and is accepting similar classifications of waste, the threshold is 10,000 tonnes carbon dioxide equivalent. This is to prevent potential avoidance of waste related liability under the Scheme. The prescribed distance will be set in regulations following consultation with industry.

Secondly, where there are large numbers of small emitters, it is more practical to cover emissions by applying liability at another point along the supply chain. For example, to avoid imposing a compliance burden on many individual suppliers or users of fossil fuels and synthetic greenhouse gases, while sending the same price signal, the Scheme applies liability at the earliest point of the fuel supply chain within Australia, for example the importer or manufacturer of the fuel or synthetic greenhouse gas.

In some situations, entities that purchase fuel from that 'upstream' entity will be required or allowed to quote an 'obligation transfer number' and to take responsibility for emissions that would result from the combustion of the purchased fuel.

#### Obligations of liable entities

Persons liable under the Scheme have two main obligations: to calculate their emissions for each financial year, and to transfer a corresponding number of emissions units to the Authority.

When the Scheme is in full operation, most liable persons will purchase emissions units through regular auctions conducted by the Authority, or through private transactions. However, for the first year of the Scheme, in 2011-12, permits will be available from the Authority for a fixed price of \$10. This one-year fixed price phase will allow the Australian economy more time to recover from the impacts of the global recession.

The Government has been consulting with industry on whether amendments can be made to resolve some contract pass through issues using the liability transfer certificate mechanism. The Government will continue to consult industry and legal experts on this issue and may introduce amendments should there be a satisfactory policy outcome.

### Transitional industry assistance

Free emissions permits will be issued to our emissions-intensive, trade-exposed industries to reduce the risk of 'carbon leakage'. Carbon leakage occurs when industries move from Australia to elsewhere, with no benefit in terms of global emissions reductions, upon introduction of a carbon price in Australia. This risk occurs when Australia imposes a carbon price on our trade exposed industries ahead of competitor economies. Transitional industry assistance is designed to reduce this risk. Regulations will provide the detail of eligible industries and rates of assistance, but the key parameters have been elaborated in significant detail in the White Paper and the Prime Minister's announcement of 4 May 2009.

As announced on 4 May 2009, a Global Recession Buffer will be provided for emissions-intensive trade-exposed (EITE) industries for the first five years of the Scheme, in addition to previously announced rates of assistance.

This Buffer will provide an additional 5 per cent free permits for EITE activities eligible for 90 per cent assistance, giving an effective rate of assistance of almost 95 per cent to these highly emissions-intensive trade-exposed activities in the first year of the scheme.

The Buffer will provide an additional 10 per cent free permits for EITE activities eligible for 60 per cent assistance, giving an effective rate of assistance of 66 per cent to these moderately emissions-intensive trade-exposed activities in the first year of the scheme.

Rates of assistance will decline at a rate of 1.3 per cent per year, in line with the Carbon Productivity Contribution set out in the White Paper.

Free permits will also be issued, on a once-off basis over the first 5 years of the Scheme, to investors who purchased or constructed coal-fired generation assets prior to the Commonwealth Government's announcement of its support for an emissions trading scheme.

While such a policy change could have been foreseen prior to this announcement, the Government considers it appropriate to partially recognise significant losses of asset value experienced by investors that were committed to such investments prior to a clear announcement by the Commonwealth Government of its support for such a scheme.



### International linking

The Scheme has been designed to be able to link with international carbon markets. Linking allows the import of emissions units from other schemes, which will reduce global and Australian abatement costs by ensuring that the cheapest abatement opportunities are pursued first, regardless of where they occur in the world. If emissions units are robust – and only such units will be accepted – it should not matter where abatement occurs.

This is not only a matter of minimizing costs to business. Trade in international emissions units helps developing countries move to a low emissions pathway. And the more that trade in emissions rights can lower the overall cost of abatement, the more likely it is that governments around the world will be able to commit to more stringent targets in future.

### Use of permit revenue

Revenue raised by sale of emissions permits will be used to help householders adjust to a carbon price. A further bill will be introduced in the 2009 Winter sittings to deliver a household assistance package under the Carbon Pollution Reduction Scheme. This package of cash assistance, tax offsets and other measures will be provided by the Government to help low- and middle-income households in adjusting to a low pollution future.

### Reforestation

To encourage reductions in carbon pollution before the scheme starts, reforestation will be eligible to voluntarily generate emission units for increases in carbon sequestration from 1 July 2010, creating economic opportunities in regional Australia. It should be noted that, in response to stakeholder feedback, the Government will be introducing amendments to the reforestation provisions in the bill.

### Commencement

While mandatory obligations under the Scheme will start from 1 July 2011, a number of elements of the Scheme will be activated before that date.

Regulations, including regulations setting the rates of assistance for emissions-intensive, trade exposed industries, will be progressively made after stakeholder consultation.

The Australian Climate Change Regulatory Authority will be established from enactment. This will give time for ACCRA to develop a good working relationship with industry and ensure that the Scheme is implemented efficiently. ACCRA will undertake important preparatory work, such as testing auction systems and publishing guidelines on the practical operation of the Scheme.

As noted above, scheme caps and gateways will be set before 1 July 2010 – after the Copenhagen conference but well before the full commencement of the scheme.

From 1 July 2010, landholders will be able to earn permits from increased carbon stored in forests – ensuring that the CPRS will encourage action to reduce carbon pollution from that date.

Auctions for permits will commence in 2010-11, for emissions units that can be used to meet obligations in the 2012-13 and following financial years.

This timetable underlines the practical advantages of passage of the bill this year.

### **Legislative package**

The Carbon Pollution Reduction Scheme Bill 2009 is part of a package of related bills, including:

- The Australian Climate Change Regulatory Authority Bill 2009;
- The Carbon Pollution Reduction Scheme (Charges – Customs) Bill 2009, Carbon Pollution Reduction Scheme (Charges – Excise) Bill 2009 and Carbon Pollution Reduction Scheme (Charges – General) Bill 2009;
- Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009;
- Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 and Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009; and
- Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 and Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009.

## Conclusion

There has been more than ten years of discussion in Australia on the introduction of an emissions trading scheme.

In the late 1990s the Australian Greenhouse Office published a series of papers setting out how such a scheme might work and invited submissions in response.

In 2004 state and territory governments formed the National Emissions Trading Task Force, and in 2006 that task force published a discussion paper on the possible design of a national greenhouse gas emissions trading system, which was the subject of extensive public consultation.

In December 2006 the former government established its task group on emissions trading, which reported in May 2007. Again, an extensive public consultation process followed and that task group recommended that an emission trading scheme should be implemented in Australia.

From April 2007 Professor Garnaut, conducted his important review of climate change issues, which also included extensive consultation.

The Government's Carbon Pollution Reduction Scheme Green Paper was then released for public consultation in June 2008. The Department of Climate Change undertook extensive stakeholder consultation in developing the Green Paper, including meetings with more than 260 organisations in technical workshops and bilateral meetings. To inform consultation, the department released 16 papers on different aspects of scheme design.

Final policy positions were set out in the Carbon Pollution Scheme White Paper, released in December 2008. In developing these policy positions, the Government considered 1026 submissions on the Green Paper, the final report of the Garnaut Climate Change Review, feedback from meetings, workshops and one-on-one stakeholder consultation and outcomes from a number of industry workshops.

In March 2009, the Government released for consultation draft legislation to implement the Carbon Pollution Reduction Scheme. In finalising the legislation, the Government has considered approximately 160 non-campaign submissions on the draft legislation, the outcomes of workshops with industry, technical and legal experts and review of the legislation by the Solicitor-General.

In April 2009, the Government also released the exposure draft legislation and commentary for the Carbon Pollution Reduction Scheme Fuel Tax Adjustment Arrangements. The Treasury conducted consultations with stakeholders on the draft legislation in Melbourne and Sydney.

I would also like to take the opportunity to acknowledge the huge amount of work that has gone into this legislation by the very smart and professional officials within the Department of Climate Change. They have played a key role in the design of this fundamental environmental and economic reform.

It is nearly two years since the now Leader of the Opposition, then Minister for Environment stood in this place and introduced the National Greenhouse and Energy Reporting Bill 2007. At the time he said:

*“This Bill is the first major step in the establishing the Australian emissions trading scheme.”*

With this Bill, Mr Turnbull has the chance to see it through. There have been ten years of talk about establishing an emissions trading scheme. Now is the time for action.

The time has come to rise to the challenge, provide business certainty and to act on climate change.

The Government is determined to meet this challenge and protect our way of life.

The Government's scheme will combat climate change, sustain our society and protect our economy now and into the future.

The Government is determined to have the scheme enacted and I urge all parties to support the bill.



**THE HON GREG COMBET AM MP**  
**Parliamentary Secretary for Climate Change**

**Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009**

**Second Reading Speech**

**14 MAY 2009**

The Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 contains consequential and transitional provisions relating to the Carbon Pollution Reduction Scheme.

The Bill seeks to amend 11 Acts and one set of regulations.

**National Greenhouse and Energy Reporting**

The most significant amendments relate to the *National Greenhouse and Energy Reporting Act 2007*.

This Act provides the existing national framework for the reporting of information on greenhouse gas emissions, energy consumption and energy production. To maintain the Government's commitment to the streamlining of reporting of greenhouse and energy data, the Act will be the starting framework for monitoring, reporting and assurance under the Carbon Pollution Reduction Scheme.

A number of changes are proposed to strengthen the Act and align it with the requirements of the Scheme, as outlined in the Government's White Paper titled *Carbon Pollution Reduction Scheme: Australia's Low Pollution Future*, which was released on 15 December 2008. Under the amendments, one report will satisfy an entity's reporting requirements for the Scheme and current reporting requirements under the *National Greenhouse and Energy Reporting Act 2007*.

**Coverage of synthetic greenhouse gases**

The Carbon Pollution Reduction Scheme covers synthetic greenhouse gases. As some of these gases are already regulated under the *Ozone Protection and Synthetic Greenhouse*

*Gas Management Act 1989*, amendments will be made to that Act to align it with the Scheme.

### **Establishment of the Australian Climate Change Regulatory Authority**

The bill contains a number of consequential amendments relating to the establishment of the Australian Climate Change Regulatory Authority.

As well as administering the Carbon Pollution Reduction Scheme, the new Authority will take over administration of both greenhouse and energy reporting and the renewable energy target. This necessitates a number of legislative amendments to replace two existing statutory bodies – the Office of the Renewable Energy Regulator and the Greenhouse and Energy Data Officer – and transfer their functions to the Authority.

The creation of the Australian Climate Change Regulatory Authority also gives rise to a number of other consequential amendments – for example, to apply financial management and accountability requirements to the Authority.

### **Measures to prevent market manipulation and misconduct**

Australian emissions units and eligible international emissions units are to be financial products for the purposes of the Chapter 7 of the *Corporations Act 2001* and Division 2, Part 2 of the *Australian Securities and Investments Commission Act 2001*. The bill amends these Acts accordingly.

These amendments will provide a strong regulatory regime to reduce the risk of market manipulation and misconduct relating to emissions units. Appropriate adjustments to the regime to fit the characteristics of units and avoid unnecessary compliance costs will be made. The Government has committed to consulting further on those adjustments and recently released a discussion paper on this issue.

As required by the Corporations Agreement between the Commonwealth, States and Territories, the Ministerial Council for Corporations has been consulted about the amendments to the corporations legislation and, to the extent necessary, has approved those amendments.

## **Taxation treatment of emissions units**

Schedule 2 of the bill amends various taxation laws to clarify the income tax and Goods and Services Tax treatment of emissions units.

The main consideration in designing the tax treatment of units is that the tax treatment should not compromise the main objectives of the Scheme. This means that tax should not influence decisions between purchasing, trading and surrendering units or alternatively reducing emissions. The preferred tax treatment will help implement the Scheme and reduce compliance and administration costs for taxpayers and the Australian Government.

For income tax, the amendments establish a rolling balance treatment of registered emissions units which is similar to that for trading stock. The result of the treatment is that the cost of a unit is deductible, with the effect of the deduction generally being deferred through the rolling balance until the sale or surrender of the unit.

The proceeds of selling a unit are assessable income with any difference in the value of units held at the beginning of an income year and at the end of that year being reflected in taxable income. Any increase in value is included in assessable income and any decrease in value allowed as a deduction.

The Bill also amends the Goods and Services Tax law. It characterises a supply of an eligible emissions unit or a Kyoto unit specifically as a supply of a personal property right and not a supply of or directly connected with real property. The amendments will promote certainty about the application of the normal GST rules to Scheme transactions.

## **Conclusion**

The consequential amendments contained in this bill are important for the efficient and effective operation of the Carbon Pollution Reduction Scheme. The amendments seek, where possible, to streamline institutional and regulatory arrangements and minimise administrative costs with the Scheme.



**THE HON GREG COMBET AM MP  
Parliamentary Secretary for Climate Change**

**Australian Climate Change Regulatory Authority Bill 2009**

**Second Reading Speech**

14 MAY 2009

This bill would establish the Australian Climate Change Regulatory Authority – a new statutory authority that would be responsible for administering the Carbon Pollution Reduction Scheme.

It is one of a package of bills to establish the Scheme.

The Authority will be responsible for auctioning and allocating emissions units, maintaining a national registry of emissions units and ensuring that firms comply with their obligations under the Scheme.

The Government's intention is to establish an effective, efficient and independent regulator.

The Authority will be a body corporate headed by a Chair and between 2 and 4 other members. Through the Chair, it will employ Australian Public Service employees on behalf of the Commonwealth.

It will have a modern set of information-gathering, inspection and enforcement powers, conferred on it by the Carbon Pollution Reduction Scheme Bill 2009.

The Authority will be at arm's length from Government. As with other independent regulators, the Minister will only be able to provide directions on general matters and there are limited grounds on which a member of the Authority may be removed from office.

The Authority will also be accountable. It will be required to produce 3-yearly corporate plans and annual reports, and comply with the *Financial Management and Accountability Act 1997*.

The Authority will take over the functions of the existing Office of the Renewable Energy Regulator and the Greenhouse and Energy Data Officer, so that a single regulatory body



will have overall responsibility for administration of climate change laws. This transfer of functions is to be affected through the Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009.

While it will have strong powers to ensure that Scheme obligations are complied with, the Authority will also have an important role in advising and assisting persons in relation to their obligations under the Scheme – something that is formally reflected in the Authority's functions.



**THE HON GREG COMBET AM MP  
Parliamentary Secretary for Climate Change**

**Carbon Pollution Reduction Scheme (Charges - Customs) Bill 2009**

**Second Reading Speech**

14 MAY 2009

This bill, which is part of the legislative package to establish the Carbon Pollution Reduction Scheme, is one of three technical bills which anticipate the possibility that the charge payable by a person to the Commonwealth for issue of an Australian emissions unit as the result of an auction, or for a fixed charge, is a tax within the meaning of section 55 of the Constitution.

The Commonwealth does not consider that these charges are taxes for constitutional purposes. However, the Government has taken an approach of abundant caution, with the charges bills providing safeguards in case a court reaches a different view on this question.

Section 55 of the Constitution provides:

Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

This bill caters for the possibility that the charges I have mentioned are, in whole or part, both a tax and a duty of customs by providing for the imposition of such a charge under this bill.



**THE HON GREG COMBET AM MP  
Parliamentary Secretary for Climate Change**

**Carbon Pollution Reduction Scheme (Charges - Excise) Bill 2009**

**Second Reading Speech**

14 MAY 2009

This bill, which is part of the legislative package to establish the Carbon Pollution Reduction Scheme, is one of three technical bills which anticipate the possibility that the charge payable by a person to the Commonwealth for issue of an Australian emissions unit as the result of an auction, or for a fixed charge, is a tax within the meaning of section 55 of the Constitution.

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This bill caters for the possibility that the charges I have mentioned are, in whole or part, both a tax and a duty of excise by providing for the imposition of such a charge under this bill.



**THE HON GREG COMBET AM MP  
Parliamentary Secretary for Climate Change**

**Carbon Pollution Reduction Scheme (Charges - General) Bill 2009**

**Second Reading Speech**

4 MAY 2009

This bill, which is part of the legislative package to establish the Carbon Pollution Reduction Scheme, is one of three technical bills which anticipate the possibility that the charge payable by a person to the Commonwealth for issue of an Australian emissions unit as the result of an auction, or for a fixed charge, is a tax within the meaning of section 55 of the Constitution.

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This bill caters for the possibility that the charges I have mentioned are, in whole or part, a tax. In those circumstances, this bill imposes the charge, but only to the extent the charge is neither a duty of customs nor a duty of excise.

14 MAY 2009

Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009

Second Reading Speech

The Bill that I am introducing today seeks to establish in legislation the 'CPRS fuel credit' measure. It will provide transitional assistance to eligible industries and fuels that will not benefit from the cent-for-cent fuel tax reduction made under the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009.

The CPRS fuel credit will offset the increase in eligible fuel prices by an amount equal to the reduction in the fuel tax rate. CPRS fuel credit amounts will be adjusted automatically with adjustments to the fuel tax made under the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009.

The CPRS fuel credit program will give transitional assistance to the agriculture (excluding forestry) and fishing industries for the period 1 July 2011 to 30 June 2014. For the period the Government has fixed the emissions unit charge at \$10 per tonne, based on current taxation arrangements, this credit will equal 2.455 cents per litre.

Activities incidental to the agriculture and fishing industries currently receive 50 per cent of the fuel tax credit under the Fuel Tax Act until 30 June 2012 after which they will be entitled to a full fuel tax credit. As these incidental activities will therefore receive a partial benefit from the reduction in fuel tax until 30 June 2012, they will be entitled to a partial CPRS fuel credit until that date. This CPRS fuel credit will be 50 per cent of the full CPRS fuel credit while the reduced fuel tax credit rate applies, and the full CPRS fuel credit thereafter until 30 June 2014.

CPRS fuel credits will also provide transitional assistance to heavy on-road transport users for the period 1 July 2011 to 30 June 2012. The industry will be entitled to a CPRS fuel credit of 2.455 cents per litre based on current taxation arrangements and the introduction of a emissions unit charge fixed at \$10 per tonne..

Liquid petroleum gas (LPG), liquid natural gas (LNG) and compressed natural gas (CNG) are alternative transport fuels and will face a Carbon Pollution Reduction Scheme emissions unit obligation. However, as LPG, LNG and CNG are currently outside the fuel excise system they will not benefit from the fuel tax reductions applying to other fuels. The CPRS fuel credit program will therefore be extended to these fuels.

To be eligible for a CPRS fuel credit for the supply of gaseous fuels, an entity must be the liable entity for that fuel under the Carbon Pollution Reduction Scheme Bill 2009.

Suppliers will benefit from a CPRS fuel credit for differing transitional periods depending on the fuel.

The CPRS fuel credit will be provided to LPG suppliers for the period 1 July 2011 to 30 June 2014 as it is predominantly used for private motoring as an alternative to petrol.

The CPRS fuel credit will be provided to LNG and CNG suppliers for the period 1 July 2011 to 30 June 2012. This treatment is the same as for heavy on-road transport as LNG and CNG are predominantly used for this purpose.

The Government will review these measures upon their conclusion.

As the volume of emissions from these fuels is substantially lower than the volume from petrol and diesel, the Australian emissions unit auction charge impact on them will be lower. To reflect this, these fuels will receive less than the full amount of the CPRS fuel credit.

From 1 July 2011, based on current taxation arrangements and the introduction of the emissions unit charge fixed at \$10 per tonne for one year, CNG will receive a CPRS fuel credit of 1.91 cents per litre which is 78 per cent of the full credit, LNG will receive a credit of 1.23 cents per litre which is 50 per cent of the full CPRS fuel credit. LPG, which has the three year assistance period, will receive a credit of 1.64 cents per litre, which is 67 per cent on the full CPRS fuel credit, for the first year after which the credit will be adjusted in accordance with increases in the emissions unit charge.

The CPRS fuel credit program will be administered by the Australian Taxation Office and claims will be made in the Business Activity Statement in the same manner as fuel tax credits.

Full details of the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 are contained in the Explanatory Memorandum.

14 MAY 2009

Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009

Second Reading Speech

The Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 will legislate amendments to the Fuel Tax Act 2006 ('the Fuel Tax Act'), the Income Tax Assessment Act 1997 and the Taxation Administration Act 1953 necessitated by the introduction of the CPRS Fuel Credits Bill and the administrative arrangements announced by the Government.

The measures in the CPRS Fuel Credits (Consequential Amendments) Bill are mechanical in nature. For example the existing formula in the Fuel Tax Act for determining the net fuel amount, which is the amount either owed to the Commissioner or the Commissioner owes, is being replaced. The new formula includes the CPRS fuel credit and increasing or decreasing adjustments for CPRS fuel credits.

Full details of the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 are contained in the Explanatory Memorandum.

Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009

Second Reading Speech

I am introducing today a Bill to amend the *Excise Tariff Act 1921* to confirm in legislation the Government's commitment in the Carbon Pollution Reduction Scheme: Australia's Low Pollution Future White Paper. The Government will cut fuel taxes on a 'cent for cent' basis to offset the initial price impact on fuel of introducing the Carbon Pollution Reduction Scheme.

The Government recognises that people have limited flexibility to respond quickly to changes in fuel prices but that, over time, transport choices can respond to price changes.

To give households and businesses time to adjust to the Scheme, this legislation introduces a mechanism to automatically adjust the rate of fuel tax on all fuels that are currently subject to the 38.143 cents per litre rate of excise.

Fuel tax consists of excise duty on domestically manufactured fuels and excise-equivalent customs duty on imported fuels. Fuel tax is predominantly applied at a rate of 38.143 cents per litre across the range of fuels including petrol, diesel, kerosene, fuel oil, heating oil, biodiesel and fuel ethanol.

Different fuels emit different amounts of carbon when they burn and their prices will increase according to the volume of their emissions. To minimise compliance costs, the fuel tax cut will be made 'across the board' to currently taxed fuels. The fuel excise adjustment will be based on the expected rise in the price of diesel resulting from the introduction of the Scheme. This will ensure there is 'cent for cent' assistance for diesel users.

Diesel emits more carbon than petrol on a per litre basis so the fuel tax cut will provide more than 'cent for cent' assistance for petrol users, which make up the majority of motorists. However, diesel use is becoming more common as fuel and vehicle standards improve. Basing the fuel tax cut on diesel will therefore ensure that the Government's 'cent for cent' commitment is delivered for the most common fuels used by households.

Any reductions will take place on 1 January and 1 July of each year, to harmonise with the Business Activity Statement reporting period.

The first fuel tax reduction will occur on 1 July 2011 with the commencement of the Carbon Pollution Reduction Scheme. On 1 July 2011, based on current taxation arrangements and that the emissions unit charge will be fixed at \$10 per tonne, the fuel tax will be reduced by 2.455 cents per litre to 35.688 cents per litre.

After the fixed emission unit price of \$10 per tonne lapses on 30 June 2012, the need for further reductions, and the amount, will be assessed based on the average Australian emissions unit auction charge over the preceding six month period. If the average unit charge at the time of the assessment is



greater than the average unit charge that formed the basis of the previous reduction, then the fuel tax rate will be further reduced. This approach will apply to adjustments that occur from 1 July 2012.

If the current average unit charge amount is less than the previous average unit charge amount then the rate of fuel tax will remain the same—the fuel tax rate will not be increased if the emissions charge has fallen.

Information on the six-month average Australian emissions unit auction charge will be published by the Australian Climate Change Regulatory Authority in accordance with section 271 of the CPRS Bill.

The final reduction will be made, if necessary, on 1 July 2014. The fuel tax rate at that date will be the ongoing rate, that is, the fuel tax rate will not revert to the 38.143 cents per litre rate. At this time the Government will review the mechanism introduced by these amendments.

The amendments to the Excise Tariff Act will commence on 1 July 2011 assuming that the Carbon Pollution Reduction Scheme commences on that date.

Full details of the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 are contained in the Explanatory Memorandum.

14 MAY 2009

Customs Tariff Amendment  
(Carbon Pollution Reduction Scheme) Bill 2009

Second Reading Speech

I am introducing today a Bill to amend the *Customs Tariff Act 1995* to confirm in legislation the Government's commitment in the Carbon Pollution Reduction Scheme: Australia's Low Pollution Future White Paper. The commitment is to cut fuel taxes on a 'cent for cent' basis to offset the initial price impact on fuel of introducing the Carbon Pollution Reduction Scheme.

This amendment will introduce a new section into the Customs Tariff Act to ensure that the reductions made to the excise rates on fuels due to the introduction of the Scheme also apply to the relevant imported products.

Where a relevant excise rate, as defined in the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009, is reduced, this amendment will substitute the same rate to the excise-equivalent customs duty rates. The substitution will apply to the subheadings in Schedules 3, 5, 6, 7 and item 50(1A) in Schedule 4 to the Customs Tariff Act.

Only the rate of excise-equivalent duty - that is, the non-ad valorem - component of the duty will be substituted.

The amendments to the Customs Tariff Act will commence on 1 July 2011 assuming the Carbon Pollution Reduction Scheme Bill 2009 commences on that date.

Full details of the Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 are contained in the Explanatory Memorandum.