

# Climate Change and Greenhouse Gas Emissions Reduction Bill 2021

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Western Australia

LEGISLATIVE COUNCIL

*(Introduced by Hon. Dr. Brad Pettitt, MLC)*

## **Climate Change and Greenhouse Gas Emissions Reduction Bill 2021**

**A Bill for**

**An Act to provide for —**

- **targets for the reduction of greenhouse gas emissions and the increase in renewable energy generation; and**
- **the establishment of the Climate Change Council, and for related purposes.**

The Parliament of Western Australia enacts as follows:

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## **Part 1 — Preliminary**

### **1. Short title**

This is the *Climate Change and Greenhouse Gas Emissions Reduction Act 2021*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

### **3. Objects of Act**

(1) The objects of this Act are —

- (a) to minimise the State’s contribution to global greenhouse gas emissions and avoid the adverse impacts of climate change;
- (b) to reduce the State’s greenhouse gas emissions consistently with the interim emissions target;
- (c) to increase the State’s generation of renewable electricity consistently with the long term renewable energy target and the interim renewable energy target;
- (d) assisting and guiding the taking of action by government and the community to reduce emissions in order to meet Australia’s obligations, including the following —
  - (i) the Climate Change Convention;
  - (ii) the Kyoto protocol;
  - (iii) the Paris Agreement;
- (e) to promote and support the State’s regions, industries and communities in the transition to a net zero emissions economy including taking advantage of the opportunities and addressing the impacts from it;

- 1 (f) “warming to well below 2°C and pursuing efforts to  
2 limit it to 1.5°C above pre-industrial levels” to ensure  
3 that decisions under this Act are consistent with limiting  
4 the increase in global;
- 5 (g) to support individuals and communities vulnerable to  
6 the impacts of climate change;
- 7 (h) to promote social justice and intergenerational equity.
- 8 (2) In pursuit of the objects of this Act, regard must be had to the  
9 guiding principles.

#### 10 **4. Guiding principles**

11 The guiding principles of this Act are —

12 1. *The precautionary principle*

13 Where there are threats of serious or irreversible damage  
14 to the environment, lack of full scientific certainty  
15 should not be used as a reason for postponing measures  
16 to prevent that damage.

17 2. *The principle of intergenerational equity*

18 The present generation should ensure that the health,  
19 diversity and productivity of the environment is  
20 maintained or enhanced for the benefit of future  
21 generations.

22 3. *The principle of just transition*

23 The benefits and burdens on individuals and  
24 communities from a just transition are allocated and  
25 distributed fairly.

#### 26 **5. Terms used**

27 In this Act —

28 *agency* means any of the following —

- 29 (a) a public sector body as that term is defined in the *Public*  
30 *Sector Management Act 1994* section 3(1);

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- 1 (b) a statutory authority as that term is defined in the  
2 *Financial Management Act 2006* section 3;
- 3 ***climate change strategy*** means the strategy prepared under  
4 section 15 or under section 17 as read with that section;
- 5 ***Council*** means the Climate Change Council established under  
6 section 19;
- 7 ***greenhouse gas*** has the same meaning as in the *National*  
8 *Greenhouse and Energy Reporting Act 2007* (Commonwealth)  
9 and means any of the following —
- 10 (a) carbon dioxide;
- 11 (b) methane;
- 12 (c) nitrous oxide;
- 13 (d) hydro fluorocarbons;
- 14 (e) perfluorocarbons;
- 15 (f) sulphur hexafluoride;
- 16 (g) any other gas that is prescribed for the purposes of this  
17 definition;
- 18 ***greenhouse gas emissions*** means the emission of one or more  
19 greenhouse gases —
- 20 (a) in the State;
- 21 (b) outside the State (but within the Commonwealth of  
22 Australia) as a result of energy that was sourced,  
23 produced or processed in the State;
- 24 ***fossil fuel*** means any of the following —
- 25 (a) petroleum as that term is defined in the *Petroleum and*  
26 *Geothermal Energy Resources Act 1967* section 5(1);
- 27 (b) coal;
- 28 (c) oil shale as that term is defined in the *Mining Act 1978*  
29 section 8(1);
- 30 (d) methane clathrates;
- 31 ***guiding principles*** means the principles set out in section 4;

1            ***interim emissions target*** has the meaning given in section 7;

2            ***interim renewable energy target*** has the meaning given in  
3            section 8(2);

4            ***long term renewable energy target*** has the meaning given in  
5            section 8(1);

6            ***member*** means a member of the Council appointed under  
7            Division 2 of Part 3;

8            ***net emissions*** means the number determined as the net  
9            emissions in the following equation —

10            net emissions = E - R

11            where —

12            E     is the amount of greenhouse gas emissions for the  
13            relevant period determined in accordance with the  
14            target methodology for the emissions target;

15            R     is the amount of greenhouse gases removed from the  
16            atmosphere for the relevant period determined in  
17            accordance with the target methodology for the  
18            emissions target;

19            ***net zero emissions*** means the net emissions for the relevant  
20            period is equal to or less than zero;

21            ***non-renewable energy source*** means any of the following —

- 22            (a) fossil fuels;
- 23            (b) nuclear;
- 24            (c) native forest biomass;

25            ***prescribed target*** means a target prescribed under section 9(1);

26            ***renewable electricity*** means electricity generated from a  
27            renewable energy source;

28            ***renewable energy source*** means any of the following —

- 29            (a) hydro;
- 30            (b) wave;

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- 1 (c) tide;  
2 (d) ocean thermal;  
3 (e) wind;  
4 (f) solar;  
5 (g) geothermal;  
6 (h) any other energy source that is prescribed for the  
7 purposes of this definition but which may not include a  
8 non-renewable energy source;

9 **reporting year** means the period of 12 months ending on the  
10 immediately preceding 30 June;

11 **target** means each of the following —

- 12 (a) a prescribed target;  
13 (b) interim emissions target;  
14 (c) long term renewable energy target;  
15 (d) interim renewable energy target;

16 **target date** means the date by which a target is to be met under  
17 section 7, 8 or 9 as the case requires, being in the case of —

- 18 (a) the interim renewable energy target, 30 June 2025;  
19 (b) the long term renewable energy target and the interim  
20 emissions target, 30 June 2030;  
21 (c) a prescribed target, the target date that is prescribed for  
22 the purposes of the target under section 9(3);

23 **target methodology** means the method for determining  
24 compliance with the relevant target as is —

- 25 (a) prescribed under section 10(2); or  
26 (b) set under section 10(3); or  
27 (c) amended under section 11 as read with section 10,  
28 as the case may be;

29 **transition to a net zero emissions economy** means the collective  
30 efforts by the government, agencies, industries, communities  
31 and individuals to meet the targets.



1 **6. Act binds Crown**

2 This Act binds the Crown in right of Western Australia and, so  
3 far as the legislative power of the Parliament permits, the Crown  
4 in all its other capacities.

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## Part 2 — Targets

### 7. Reduction of greenhouse gas emissions

The *interim emissions target* is to reduce net greenhouse gas emissions by at least 50% of the 2005 levels of greenhouse gas emissions, by 30 June 2030.

### 8. Increase in renewable energy generation

(1) The *long term renewable energy target* is 90% of electricity generated in the State by 30 June 2030 is from renewable energy sources.

(2) The *interim renewable energy target* is 50% of electricity generated in the State by 30 June 2025 is from renewable energy sources.

### 9. Additional targets

(1) The regulations may prescribe supplementary targets in relation to one or more of the following —

- (a) greenhouse gas emissions;
- (b) the removal of greenhouse gases from the atmosphere;
- (c) renewable energy sources in the State;
- (d) the generation of electricity from renewable energy sources in the State.

(2) A prescribed target may bring forward, but may not extend, a target date for a target set out in section 7 or section 8.

(3) The regulations must prescribe a target date for a prescribed target.

### 10. Methods for determining compliance with targets

(1) In this section, the *method for determining compliance with a target* in relation to —

- (a) the interim emissions target includes —

- 1 (i) the method for determining the amount of  
2 greenhouse gas emissions;
- 3 (ii) determining the activities that remove  
4 greenhouse gases from the atmosphere;
- 5 (iii) the method for determining the amount of  
6 greenhouse gases removed from the atmosphere  
7 due to those activities;
- 8 (iv) setting the baseline 2005 levels of greenhouse  
9 gas emissions;
- 10 (b) the long term renewable energy target and the interim  
11 renewable energy target includes —
- 12 (i) determining the energy sources that generate  
13 electricity in the State and which of those are  
14 renewable energy sources;
- 15 (ii) the method for determining the amount of  
16 electricity generated from energy sources.
- 17 (2) The regulations may prescribe the method for determining  
18 compliance with a target.
- 19 (3) Subject to subsection (2), the Minister must set the method for  
20 determining compliance with each target within 6 months of the  
21 day on which this section comes into operation.
- 22 (4) Before the method for determining compliance with a target is  
23 prescribed or set, the Minister must —
- 24 (a) consult with the Council and attempt to reach consensus  
25 with the Council within the period referred to in  
26 subsection (3); and
- 27 (b) obtain written advice from one or more persons who are,  
28 in the Minister's opinion, appropriately qualified to  
29 provide independent expert advice,
- 30 on the proposed method.
- 31 (5) The Minister must ensure that the method for determining  
32 compliance with a target is consistent with the best national and

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1 international practices that relate to the method for determining  
2 compliance with the target.

3 (6) The Minister must publish the method for determining  
4 compliance with a target under section 31, within 28 days of the  
5 date on which it is set under subsection (3).

6 **11. Amendment of methods for determining compliance with**  
7 **targets**

8 (1) The Minister may amend a method for determining compliance  
9 with a target set under section 10(3).

10 (2) Sections 10(1), (4) and (5) apply to an amendment of a method  
11 for determining compliance with a target in a similar manner as  
12 if a reference in those sections to setting the method for  
13 determining compliance with a target were a reference to an  
14 amendment of that method.

15 (3) The Minister must publish an amendment of a method for  
16 determining compliance with a target under section 31, within  
17 28 days of the date on which the method is amended.

18 **12. Annual determinations**

19 (1) The Minister must, by 31 August in each year and in accordance  
20 with any applicable target methodology, determine for the  
21 5 years preceding the reporting year —

22 (a) the amount of greenhouse gas emissions; and

23 (b) the amount of greenhouse gases removed from the  
24 atmosphere; and

25 (c) the amount of net greenhouse gas emissions expressed  
26 as a percentage of the 2005 levels of greenhouse gas  
27 emissions, subject to subsection (2); and

28 (d) the net emissions; and

29 (e) the average amount of greenhouse gas emissions per  
30 individual in the State; and

- 1           (f) the percentage of electricity generated in the State from  
2           renewable energy sources; and  
3           (g) any other matter prescribed under subsection (3).
- 4       (2) The Minister is only required to make a determination under  
5       subsection (1)(c) until the later of the period ending  
6       30 June 2030 or the date on which the interim emissions target  
7       is met.
- 8       (3) The regulations may prescribe a matter to be determined by the  
9       Minister under subsection (1) in relation to a prescribed target.

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## Part 3 — Administration

### Division 1 — The Minister

#### 13. Term used

In this Division —

*Minister's determinations* means the determinations made by the Minister under section 12.

#### 14. Functions of the Minister

(1) The Minister has the following functions —

- (a) to develop a climate change strategy for the State;
- (b) to develop policies and to promote strategies and actions including by agencies, industries and communities, that are intended to contribute to meeting the targets;
- (c) to promote the State's involvement in state, national and international climate change forums;
- (d) to promote the development and use of technologies that are intended to eliminate or reduce greenhouse gas emissions or to increase the removal of greenhouse gases from the atmosphere;
- (e) to promote the creation of jobs in industries that contribute to the elimination or reduction of greenhouse gas emissions or to the increase in the removal of greenhouse gases from the atmosphere;
- (f) to promote the generation and use of renewable electricity in the State;
- (g) to promote the creation of jobs in the renewable electricity industry in the State;
- (h) to support initiatives, including training and education, for the transition of workers from jobs in industries relating to the generation of electricity from non-renewable energy sources;

- 1 (i) to promote the creation of jobs in the regions that give  
2 effect to the objects of this Act or support the removal of  
3 greenhouse gases from the atmosphere;
- 4 (j) to promote research and development consistent with  
5 the objects of this Act;
- 6 (k) to undertake monitoring and other programs to assess  
7 the existing and future effects of climate change in the  
8 State;
- 9 (l) to support public education about climate change;
- 10 (m) to provide reports and to publish other information and  
11 analysis relating to —
- 12 (i) climate change; or  
13 (ii) initiatives, strategies or actions that address  
14 climate change or that are intended to contribute  
15 to meeting a target;
- 16 (n) to undertake any other functions given to the Minister  
17 under this Act.
- 18 (2) In the exercise of the Minister's functions, the Minister must —  
19 (a) apply the guiding principles; and  
20 (b) have regard to the advice of the Council.

21 **15. Climate change strategy**

- 22 (1) The Minister must prepare a climate change strategy and  
23 publish it under section 31, within 12 months of the day on  
24 which this section comes into operation.
- 25 (2) The climate change strategy must include a statement of the  
26 following —
- 27 (a) the proposed pathways for meeting the targets  
28 including —
- 29 (i) the policies that have been developed or are  
30 proposed to be developed; and

- 1 (ii) the strategies or actions including by agencies,  
2 industries and communities, that have been  
3 promoted or are proposed to be promoted; and
- 4 (b) the priorities and timelines for the government in  
5 developing the proposed policies and promoting or  
6 undertaking the proposed strategies or actions; and
- 7 (c) the likely impact of the transition to a net zero emissions  
8 economy on —
- 9 (i) low-income households and other socially or  
10 financially disadvantaged people; and
- 11 (ii) workers in industries, regions and communities  
12 which are likely to be significantly impacted by  
13 the transition to a net zero emissions economy,  
14 including due to employment in a particular  
15 industry or location in a particular region.
- 16 (3) The climate strategy must include a transition plan which  
17 provides for fair and just measures proposed to address the  
18 expected impact of the transition to a net zero emissions  
19 economy on the—
- 20 (a) households and people referred to in  
21 subsection (2)(c)(i); and
- 22 (b) workers, regions and communities referred to in  
23 subsection (2)(c)(ii).
- 24 (4) The climate change strategy shall include measures relating to  
25 the mitigation of or adaptation to the effects of climate change,  
26 the reduction of societal vulnerabilities, particularly among  
27 socio-economically disadvantaged populations, resilience  
28 building and disaster risk reduction.
- 29 (5) The Minister must, in preparing the climate change strategy,  
30 consult with the Council.



1   **16.    Review of climate change strategy**

2       (1)   The Minister must carry out a review of the climate change  
3       strategy at intervals of not longer than 5 years from the day on  
4       which this section comes into operation.

5       (2)   The Minister must prepare a report based on each review.

6       (3)   Section 17 applies if the Minister determines, as a result of a  
7       review, the climate change strategy should be amended or  
8       revoked and substituted with a replacement climate change  
9       strategy.

10   **17.    Amendment or replacement of climate change strategy**

11       (1)   The Minister may —

12           (a)   amend the climate change strategy; or

13           (b)   revoke the climate change strategy and immediately  
14           substitute it with a replacement climate change strategy.

15       (2)   Sections 15(2), (3), (4) and (5) apply to —

16           (a)   an amendment of the climate change strategy in a  
17           similar manner as if a reference in those sections to the  
18           climate change strategy were a reference to an  
19           amendment of the strategy;

20           (b)   the revocation of the climate change strategy and  
21           immediate substitution of it with a replacement climate  
22           change strategy as if a reference in those sections to the  
23           climate change strategy were a reference to the  
24           replacement strategy.

25       (3)   The Minister must publish an amendment of the climate change  
26       strategy or notice of the revocation of the climate change  
27       strategy and the replacement strategy under section 31, within  
28       28 days of the date on which the strategy is amended or revoked  
29       and replaced.

1 **18. Reporting to Parliament**

2 (1) The Minister must, by 31 October in each year, prepare a report  
3 and cause it to be laid before each House of Parliament.

4 (2) The report must include —

5 (a) a description of each target and the target methodology  
6 for the target; and

7 (b) the Minister's determinations for the reporting year; and

8 (c) a comparison of the Minister's determinations for the  
9 reporting year with the Minister's determinations made  
10 since the commencement of this Act; and

11 (d) identification of the following matters for the reporting  
12 year —

13 (i) the main sources of greenhouse gas emissions by  
14 industry type and the quantity and type of  
15 greenhouse gas emissions by each industry; and

16 (ii) the main methods of removing greenhouse gases  
17 from the atmosphere and the quantity and type of  
18 greenhouse gases removed from the atmosphere  
19 by each method; and

20 (iii) the main energy sources for the generation of  
21 electricity and the quantity of electricity  
22 generated by each source; and

23 (e) an explanation of the possible reasons for any change in  
24 the Minister's determinations for the reporting year from  
25 the preceding Minister's determination; and

26 (f) an analysis of the progress in meeting the targets and an  
27 assessment of cumulative progress towards meeting the  
28 targets; and

29 (g) an analysis of the performance and effectiveness of the  
30 pathways in the climate change strategy; and

- 1 (h) an analysis of the performance of any policies or  
2 schemes that promote any of the matters described in  
3 subsection (3); and
- 4 (i) an analysis of the performance and effectiveness of any  
5 strategies or actions promoted, or undertaken by any  
6 agency, that relate to any of the matters described in  
7 subsection (3); and
- 8 (j) any other prescribed information, including any that  
9 may be prescribed under subsection (4); and
- 10 (k) any other information relevant to the targets that the  
11 Minister considers appropriate.
- 12 (3) The following matters apply for the purposes of  
13 subsections (2)(h) and (i) —
- 14 (a) the elimination or reduction of greenhouse gas  
15 emissions;
- 16 (b) an increase in the amount of greenhouse gases removed  
17 from the atmosphere;
- 18 (c) the generation of electricity from renewable energy  
19 sources in the State.
- 20 (4) The regulations may prescribe information that must be  
21 included in a report prepared under subsection (1) in relation to  
22 a prescribed target.
- 23 (5) Every second report that is tabled after the day on which this  
24 section comes into operation must also include a description  
25 of —
- 26 (a) what has been done in the performance of the Minister's  
27 functions since the last report that included information  
28 under this subsection (5); and
- 29 (b) the results of the performance of the Minister's  
30 functions referred to in paragraph (a); and

- 1 (c) the levels of investment and employment in the State in  
2 relation to the —
- 3 (i) reduction of greenhouse gas emissions; and  
4 (ii) removal of greenhouse gases from the  
5 atmosphere; and  
6 (iii) generation of electricity from renewable energy  
7 sources compared with other energy sources; and
- 8 (d) what the Minister has done to promote or achieve an  
9 increase in the levels of investment or employment  
10 referred to in paragraph (c).
- 11 (6) The report that is tabled next after a target date must state  
12 whether the target has been met.
- 13 (7) If a target has not been met by the target date, the report that is  
14 tabled next after the target date and each subsequent report until  
15 the target is met must also include —
- 16 (a) an explanation why the target has not been met; and  
17 (b) what action the Minister is taking so the target will be  
18 met; and  
19 (c) how that action differs from the action that was taken for  
20 the target that was not met.
- 21 (8) The report that is tabled next after a review of the climate  
22 change strategy under section 16 must include a summary of the  
23 outcome of the review and —
- 24 (a) a summary of what action has been taken or is proposed  
25 to be taken as a result of the review, including an  
26 amendment or revocation and substitution with a  
27 replacement climate change strategy; or  
28 (b) an explanation why no action has been taken and none is  
29 proposed to be taken as a result of the review.

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## Division 2 — Climate Change Council

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### 19. Climate Change Council established

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A body called the Climate Change Council is established.

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### 20. Membership

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(1) The Council is to consist of 7, 8 or 9 members, appointed by an instrument in writing signed by the Minister.

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(2) The Minister must ensure that —

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(a) persons appointed to be members of the Council have a broad range of skills and knowledge relating to climate change;

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(b) at least one person is appointed who is an Aboriginal person;

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(c) one or more persons is appointed who is qualified to represent each of the following —

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(i) the environment and conservation sector; and

16

(ii) the scientific community; and

17

(iii) the interests of people who are socially or financially disadvantaged; and

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(d) other persons are appointed who have an interest, expertise, experience or skills in a range of backgrounds including —

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(i) the local government sector; or

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(ii) the business community; or

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(iii) the energy sector; or

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(iv) the transport or land use planning sectors; or

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(v) the agricultural sector; or

27

(vi) the health sector.

- 1 (3) The Minister must not appoint a person to be a member unless  
2 the person has demonstrated to the Minister’s satisfaction that  
3 the person —
- 4 (a) is committed to action to address climate change; and  
5 (b) has an understanding of the issues and impacts  
6 associated with climate change.
- 7 (4) A person must not be appointed to be a member if the person is  
8 a public service officer.
- 9 (5) The regulations may prescribe the procedure for appointing  
10 persons as members.
- 11 (6) The Minister must appoint a member to be the chairperson of  
12 the Council.
- 13 **21. Functions**
- 14 (1) The primary functions of the Council are —
- 15 (a) to provide independent and expert advice to the Minister  
16 on —
- 17 (i) reducing greenhouse gas emissions; and  
18 (ii) removing greenhouse gases from the  
19 atmosphere; and  
20 (iii) promoting the renewable electricity industry; and  
21 (iv) addressing climate change and its effects  
22 (including mitigation, adaptation, the reduction  
23 of societal vulnerabilities, particularly among  
24 socio-economically disadvantaged populations,  
25 resilience building and disaster risk reduction);  
26 and
- 27 (b) to review progress in meeting the targets and the  
28 performance by the Minister of the functions under  
29 section 14.

- 1 (2) The Council has such other functions as are conferred on it by  
2 the Minister or this Act.
- 3 (3) In performing its functions, the matters on which the Council  
4 may advise the Minister include any of the following —
- 5 (a) policies, actions or strategies to achieve energy  
6 efficiencies;
- 7 (b) policies, actions or strategies to increase renewable  
8 electricity generation and use;
- 9 (c) policies, actions or strategies to achieve the targets;
- 10 (d) the impact of climate change on the business sector or  
11 the broader community including —
- 12 (i) barriers to addressing climate change; and  
13 (ii) proposed actions or strategies to overcome the  
14 barriers;
- 15 (e) policies, actions or strategies to encourage private  
16 entities to take action to —
- 17 (i) reduce greenhouse gas emissions;  
18 (ii) increase the removal of greenhouse gases from  
19 the atmosphere;  
20 (iii) increase the generation and use of renewable  
21 electricity;  
22 (iv) address climate change and its effects;
- 23 (f) commercial, regional, national and international  
24 practices or policies, including technological  
25 developments, to address climate change that may be  
26 suitable for use in or applicable to the State;
- 27 (g) costs associated with addressing, failing to address and  
28 inadequately addressing climate change.

29 **22. Schedule 1 has effect**

30 Schedule 1 has effect in relation to the Council.

1 **23. Annual report**

2 (1) The Council must on or before 30 November in each year make  
3 and submit to the Minister an annual report of its proceedings  
4 and activities for the reporting year.

5 (2) The annual report must include —

6 (a) a summary of any advice or recommendations given by  
7 the Council to the Minister during the reporting year;  
8 and

9 (b) the Council's review, under section 21(1)(b), of progress  
10 in meeting the targets and the performance by the  
11 Minister of the functions under section 14.

12 (3) The Minister must cause the following documents to be laid  
13 before each House of Parliament within 14 sitting days of the  
14 House after the Council's report is received by the Minister —

15 (a) a copy of the Council's annual report; and

16 (b) a statement that sets out —

17 (i) the extent to which the Minister has acted on any  
18 advice or recommendations given by the Council  
19 or an independent expert under section 10(4)(b),  
20 to the Minister during the reporting year; or

21 (ii) if the Minister has not acted on any of the advice  
22 or recommendations given by the Council or an  
23 independent expert under section 10(4)(b), the  
24 reasons for not doing so.



1                   **Part 4 — Climate change considerations**

2   **24.    Terms used**

3       (1) In this Part —

4           *action* has the meaning given in subsection (2);

5           *decision maker* means any Minister of the Crown, agency or  
6           other person exercising a power or otherwise taking action  
7           under a written law;

8           *guidelines* means guidelines made under section 27.

9       (2) For the purposes of this Part, action means a —

10           (a) recommendation given or decision made; or

11           (b) policy, program, strategy, report, practice or process  
12           developed, prepared, approved or implemented,

13           that has the potential, if acted on or applied, to do any of the  
14           following —

15           (c) impact the State’s ability to mitigate or adapt to climate  
16           change or to undertake disaster risk reduction measures;

17           (d) contribute to greenhouse gas emissions;

18           (e) impact the removal of greenhouse gases from the  
19           atmosphere.

20   **25.    Action not to have effect of exceeding threshold**

21       (1) A decision maker must not take an action if it will, or is likely  
22       to, have the effect of permitting or approving a new project,  
23       development or facility that would exceed a threshold.

24       (2) For the purposes of this section —

25           *carbon dioxide equivalence*, of an amount of greenhouse gas,  
26           means the amount of the gas multiplied by a value specified in  
27           the regulations in relation to that kind of greenhouse gas;

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- 1                      **threshold** means any of the following —
- 2                      (a) the total amount of greenhouse gases emitted each year
- 3                      associated with the project, development or facility that
- 4                      would have a carbon dioxide equivalence of
- 5                      25 kilotonnes or more;
- 6                      (b) the total amount of energy produced each year by the
- 7                      project, development or facility from a non-renewable
- 8                      energy source would be 100 terajoules or more;
- 9                      (c) the total amount of energy consumed each year by the
- 10                     project, development or facility from a non-renewable
- 11                     energy source would be 100 terajoules or more.
- 12                     **26.        Actions taken by decision makers**
- 13                     (1) A decision maker must, before taking an action, have regard
- 14                     to —
- 15                     (a) the potential impacts of climate change relevant to the
- 16                     action, if acted on or applied; and
- 17                     (b) the potential contribution to greenhouse gas emissions
- 18                     of the action, if acted on or applied; and
- 19                     (c) the guiding principles; and
- 20                     (d) any guidelines that are relevant to the action itself or the
- 21                     action if acted on or applied.
- 22                     (2) A decision maker must, before taking an action to which
- 23                     section 24(2)(c) applies, also have regard to the potential
- 24                     biophysical, economic, environmental, health and social impacts
- 25                     including —
- 26                     (a) potential long term and short term impacts; and
- 27                     (b) potential beneficial and detrimental impacts; and
- 28                     (c) potential direct and indirect impacts; and
- 29                     (d) potential cumulative impacts.

- 1 (3) A decision maker must, before taking an action to which  
2 section 24(2)(d) applies, also have regard to —
- 3 (a) potential long term and short term greenhouse gas  
4 emissions; and
- 5 (b) potential direct and indirect greenhouse gas emissions;  
6 and
- 7 (c) potential increases and decreases in greenhouse gas  
8 emissions; and
- 9 (d) potential cumulative impacts of greenhouse gas  
10 emissions.
- 11 (4) A decision maker must, before taking an action to which  
12 section 24(2)(e) applies, also have regard to —
- 13 (a) potential long term and short term removal of  
14 greenhouse gases from the atmosphere; and
- 15 (b) potential increases and decreases in the removal of  
16 greenhouse gases from the atmosphere; and
- 17 (c) potential cumulative impacts of the removal of  
18 greenhouse gases from the atmosphere.
- 19 (5) This section does not affect or limit the function or discretion of  
20 a decision maker to consider any other matter before taking an  
21 action.
- 22 (6) A decision maker must document how the matters referred to in  
23 this section were had regard to before taking the action.
- 24 **27. Minister may make guidelines**
- 25 (1) The Minister may make guidelines to provide policy or practical  
26 guidance to decision makers about any matter that relates to  
27 taking an action under, or complying with, this Part.
- 28 (2) The guidelines may relate to one or more of the following —
- 29 (a) the State's ability to mitigate or adapt to climate change  
30 or to undertake disaster risk reduction measures;

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- 1                      (b) greenhouse gas emissions;  
2                      (c) the removal of greenhouse gas emissions from the  
3                                      atmosphere;  
4                      (d) any of the matters provided for in section 26(1), (2), (3)  
5                                      or (4);  
6                      (e) the potential of an action, if acted on or applied, to  
7                                      impact the State's ability to mitigate or adapt to climate  
8                                      change or to undertake disaster risk reduction measures;  
9                      (f) the potential of an action, if acted on or applied, to  
10                                      contribute to greenhouse gas emissions;  
11                      (g) the potential of an action, if acted on or applied, to  
12                                      impact the removal of greenhouse gases from the  
13                                      atmosphere;  
14                      (h) the possible application to an action of any State policy  
15                                      on the mitigation or adaptation to climate change, the  
16                                      reduction of societal vulnerabilities, particularly among  
17                                      socio-economically disadvantaged populations,  
18                                      resilience building or disaster risk reduction;  
19                      (i) the possible application to an action of any State policy  
20                                      on greenhouse gas emissions;  
21                      (j) the possible application to an action of any State policy  
22                                      on the removal of greenhouse gases from the  
23                                      atmosphere.
- 24                      (3) The Minister may vary or revoke any guidelines.
- 25                      (4) The Minister must, in making or varying any guidelines, have  
26                                      regard to the guiding principles.
- 27                      (5) The Minister must, before making, varying or revoking any  
28                                      guidelines, consult with the Council.

29                      **28. Status and publication of guidelines**

- 30                      (1) Guidelines are not subsidiary legislation for the purposes of the  
31                                      *Interpretation Act 1984*.

- 1 (2) The *Interpretation Act 1984* sections 41, 43 (other than  
2 subsection (6)) and 44 apply to guidelines as if they were  
3 subsidiary legislation.
- 4 (3) If there is a conflict or inconsistency between a provision of this  
5 Act and a provision of the guidelines, the provision of this Act  
6 prevails.
- 7 (4) For the purposes of this section, *guidelines* includes a variation  
8 or revocation of guidelines.

9 **29. Inconsistent laws**

10 Whenever a provision of this Part is inconsistent with a  
11 provision contained in, or ratified or approved by, any other  
12 written law, the provision of this Part prevails.

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## Part 5 — Miscellaneous

### 30. Saving of rights at law

Nothing in this Act in any way affects any right any person has at law to prevent, control or abate the impacts of climate change, greenhouse gas emissions or the generation of electricity from non-renewable energy sources or to obtain damages.

### 31. Documents to be published and made available

(1) In this section —

*department* means the department principally assisting in the administration of this Act;

*document* means any of the following —

- (a) a method for determining compliance with a target set under section 10(3);
- (b) an amendment of a method for determining compliance with a target made under section 11;
- (c) the climate change strategy;
- (d) an amendment of the climate change strategy or notice of revocation of the climate change strategy and the replacement climate change strategy made under section 17.

(2) Publication of a document must be effected by publishing —

- (a) the document in the *Gazette*; or
- (b) a notice in the *Gazette* stating that the document has been prepared or made and that particulars of its contents may be obtained from the head office of the department and the department's website.

- 1 (3) Particulars of a document and any guidelines made or varied  
2 under section 27 must be —  
3 (a) made available at the head office of the department; and  
4 (b) published on, or accessible through, the department’s  
5 website.

6 **32. Regulations**

- 7 (1) The Governor may make regulations prescribing matters —  
8 (a) required or permitted by this Act to be prescribed; or  
9 (b) necessary or convenient to be prescribed for giving  
10 effect to the purposes of this Act.  
11 (2) The regulations may provide for the Minister to require persons  
12 to provide information to the Minister to enable the Minister to  
13 perform the Minister’s functions under this Act.  
14 (3) Regulations made for the purposes of subsection (2) may  
15 provide for offences against the regulations and prescribe  
16 penalties for those offences not exceeding a fine of \$10 000.

17 **33. Protection from liability for wrongdoing**

- 18 (1) An action in tort does not lie against a person for anything that  
19 the person has done, in good faith, in the performance or  
20 purported performance of a function under this Act.  
21 (2) The State is also relieved of any liability that it might otherwise  
22 have had for another person having done anything as described  
23 in subsection (1).  
24 (3) The protection given by this section applies even though the  
25 thing done as described in subsection (1) may have been  
26 capable of being done whether or not this Act had been enacted.  
27 (4) In this section, a reference to the doing of anything includes a  
28 reference to an omission to do anything.

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- 1    **34.    Review of Act**
- 2        (1)    The Minister must carry out a review of the operation and  
3                effectiveness of this Act as soon as is practicable after every  
4                5th anniversary of the commencement of this section.
- 5        (2)    In the course of the review the Minister must consider and have  
6                regard to —
- 7                (a)    the extent to which the objects of this Act, including the  
8                        targets, have been or are being achieved; and
- 9                (b)    the extent to which additional legislative measures may  
10                        be necessary to achieve the objects of this Act; and
- 11                (c)    any other matters that appear to the Minister to be  
12                        relevant to the operation and effectiveness of this Act.
- 13        (3)    The Minister must prepare a report based on each review.
- 14        (4)    The Minister must —
- 15                (a)    in carrying out the review, consult with the Council; and
- 16                (b)    in preparing the report, include in it a summary of any  
17                        advice or recommendations given by the Council in  
18                        relation to the review.
- 19        (5)    The Minister must, as soon as is practicable after the report is  
20                prepared, cause it to be laid before each House of Parliament.



1       **Part 6 — Consequential amendments to other Acts**

2       **35.       *Constitution Acts Amendment Act 1899* amended**

3       (1) This section amends the *Constitution Acts Amendment Act 1899*.

4       (2) In Schedule V Part 3 after the item relating to the Chicken Meat  
5       Industry Committee insert:

6               The Climate Change Council established under the *Climate*  
7               *Change and Greenhouse Gas Emissions Reduction Act 2021*.

8       **36.       *Environmental Protection Act 1986* amended**

9       (1) This section amends the *Environmental Protection Act 1986*.

10      (2) In section 5 delete “Whenever” and insert:

11               Subject to section 29 of the *Climate Change and Greenhouse*  
12               *Gas Emissions Reduction Act 2021*, whenever



1    **3.      Remuneration**

2            A member is to be paid such remuneration and allowances as the  
3            Minister determines from time to time on the recommendation of the  
4            Public Sector Commissioner.

5    **4.      Meetings**

6            (1)    The Council must meet at least 4 times a year.

7            (2)    The member appointed under section 20(6) as chairperson must, if  
8            present, preside at all Council meetings.

9            (3)    If the chairperson is not present at a Council meeting, the members  
10           present at the meeting are to elect one of their number to preside.

11           (4)    The quorum for a Council meeting is any 4 members.

12   **5.      Holding meetings remotely**

13           The presence of a member at a Council meeting need not be by  
14           attendance in person but may be by that member and each other  
15           member at the meeting being simultaneously in contact by telephone  
16           or other means of instantaneous communication.

17   **6.      Voting**

18           (1)    Each member present at a Council meeting has a deliberative vote  
19           unless clause 8 prevents the member from voting.

20           (2)    A question is to be resolved by a majority of the votes cast.

21           (3)    If there is an equality of votes the member presiding has a casting  
22           vote in addition to a deliberative vote.

23           (4)    If a resolution relating to giving advice or a recommendation to the  
24           Minister is passed by the exercise of a casting vote under  
25           subclause (3), the Council must provide to the Minister at the same  
26           time as providing the advice or recommendation a summary of any  
27           minority view and the reasoning for it, if requested to do so at the  
28           meeting by a member who voted against the resolution.

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1 **7. Disclosure of interests**

- 2 (1) A member who has a material personal interest in a matter being  
3 considered or about to be considered by the Council must, as soon as  
4 possible after the relevant facts come to the member's knowledge,  
5 disclose the nature and extent of the interest at a Council meeting.
- 6 (2) If a member has, in the opinion of the person presiding at a Council  
7 meeting, a material personal interest in a matter being considered or  
8 about to be considered by the Council, the person presiding may call  
9 on the member to disclose the nature and extent of that interest and, in  
10 default of any such disclosure, may determine that the member has the  
11 interest.
- 12 (3) A disclosure under subclause (1) or a determination under  
13 subclause (2) must be recorded in the minutes of the meeting.

14 **8. Participation by interested member**

- 15 (1) A member who has made a disclosure of an interest in a matter, or in  
16 respect of whom a determination has been made in relation to a  
17 matter —
- 18 (a) may take part in the consideration or discussion of the matter;  
19 and
- 20 (b) must not be present at nor take part in a vote, whether at the  
21 meeting or otherwise, to advise the Minister on the matter.
- 22 (2) Subclause (1) does not apply in relation to a member if —
- 23 (a) the member disclosed an interest in a matter under clause 7(1)  
24 or the person presiding at the meeting has determined that the  
25 member has an interest in a matter under clause 7(2); and
- 26 (b) the Council has passed a resolution that —
- 27 (i) specifies the member, the interest and the matter; and  
28 (ii) states that the members voting for the resolution are  
29 satisfied that the interest is not significant enough to  
30 be likely to unduly influence the member's conduct  
31 in considering or voting on the matter; and
- 32 (c) the member was not present while the resolution in  
33 paragraph (b) was being considered at a Council meeting and  
34 did not vote on the resolution.

1    **9.      Procedure at meetings**

2                    The Council is to determine its own meeting procedures to the extent  
3                    they are not fixed by this Act.

4    **10.     Minutes of meetings**

5                    The Council must keep accurate minutes of its meetings.

6    **11.     Resolution without meeting**

7                    A resolution in writing signed or otherwise assented to in writing by  
8                    each member has the same effect as if it had been passed at a meeting,  
9                    and must be recorded in the minutes of the Council's next meeting.

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