Draft for comment

South Australia

Climate Change and Greenhouse Emissions Reduction (Miscellaneous) Amendment Bill 2024

A BILL FOR

An Act to amend the *Climate Change and Greenhouse Emissions Reduction Act 2007*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Climate Change and Greenhouse Emissions Reduction (Miscellaneous) Amendment Act 2024*.

Part 2—Amendment of *Climate Change and Greenhouse Emissions Reduction Act 2007*

2—Amendment of section 3—Objects of Act

(1) Section 3(1)(a)(i) and (ii)—delete subparagraphs (i) and (ii) and substitute:

(i) by setting the SA target; and

(ii) by setting the following related targets:

(A) the 2030 target;

(B) the renewable electricity target; and

(2) Section 3(1)(b)(ii)—after "targets" insert:

(including the interim targets under section 5(2a))

(3) Section 3(1)(b)(iii)—after "policies" insert:

, plans

(4) Section 3(1)(d)—delete "or limit" and substitute:

, limit or prevent

(5) Section 3(1)(e)—delete "or limit" and substitute:

, limit or prevent

(6) Section 3(1)(i)—before "use" insert:

generation or

3—Amendment of section 4—Interpretation

(1) Section 4—before the definition of ***Australian jurisdictions*** insert:

2030 target—see section 5(2)(a);

(2) Section 4—after the definition of ***Australian jurisdictions*** insert:

climate change adaptation means any process of adjusting to the actual or expected effects of climate change;

climate change mitigation means measures or activities that relate to reducing the rate of climate change including (without limitation) by limiting, reducing or preventing greenhouse gas emissions;

Department means the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of this Act;

(3) Section 4—after the definition of ***greenhouse gas emissions*** insert:

net greenhouse gas emissions means greenhouse gas emissions after—

(a) determining the amount of total greenhouse gas emissions attributable to the State, including any removals of greenhouse gas emissions from the atmosphere due to activities within the State; and

(b) deducting from the amount described in paragraph (a), any emissions offsets from outside of the State;

Premier's Climate Change Council—see section 9;

public sector entity means—

(a) a Minister; or

(b) an administrative unit; or

(c) any other agency or instrumentality of the Crown; or

(d) a body corporate—

(i) comprised of persons, or with a governing body comprised of persons, a majority of whom are appointed by the Governor, a Minister or an agency or instrumentality of the Crown; or

(ii) subject to control or direction by a Minister;

(4) Section 4—after the definition of ***renewable electricity*** insert:

renewable electricity target—see section 5(2)(b);

(5) Section 4, definition of ***SA target***—delete the definition and substitute:

SA target—see section 5(1);

(6) Section 4—after the definition of ***sector agreements*** insert:

statewide climate change risk assessment—see section 14A.

4—Amendment of section 5—Targets

(1) Section 5(1) and (2)—delete subsections (1) and (2) and substitute:

(1) The principal target under this Act (the ***SA target***) is to achieve zero net greenhouse gas emissions within the State by 31 December 2050.

(2) The following are related targets under this Act:

(a) to reduce net greenhouse gas emissions in the State to an amount that is at least 50% below 2005 levels by 31 December 2030 (the ***2030 target***);

(b) to achieve 100% net renewable electricity generation in the State by 31 December 2030 (the ***renewable electricity target***).

(2a) Without limiting subsection (3)(c), the Minister must set interim targets under this Act for the reduction of net greenhouse gas emissions in this State to be achieved by—

(a) 31 December 2035; and

(b) 31 December 2040; and

(c) 31 December 2045.

(2b) The setting of an interim target under subsection (2a) must—

(a) be expressed as the extent to which the amount of the State's net greenhouse gas emissions is to be reduced in relation to 2005 levels; and

(b) be such that the interim target set in relation to each date constitutes a greater reduction in net greenhouse gas emissions in the State than a target set in relation to any preceding date (including the 2030 target); and

(c) include an indicative interim target for the date that next follows the date in relation to which the interim target is being set.

(2c) An interim target under subsection (2a) must—

(a) in relation to the target to be achieved by 31 December 2035—be set on or before 31 December 2030; and

(b) in relation to the target to be achieved by 31 December 2040—be set on or before 31 December 2035; and

(c) in relation to the target to be achieved by 31 December 2045—be set on or before 31 December 2040.

(2d) In setting an interim target under subsection (2a) the Minister must—

(a) undertake such consultation as the Minister determines to be reasonable and appropriate; and

(b) have regard to any relevant advice of the Premier's Climate Change Council relating to targets.

(2) Section 5(3)—delete "and (2)" and substitute:

, (2), (2a) and (2b)

(3) Section 5(3)(a)—delete "1990" and substitute:

2005

(4) Section 5(3)(e)—after "emissions" insert:

or renewable energy

(5) Section 5(4)—delete subsection (4) and substitute:

(4) The Minister must, insofar as may be relevant, in acting under subsections (2a), (2b)(c) and (3)—

(a) seek to acknowledge action taken since 2005 to achieve reductions in greenhouse gas emissions; and

(b) seek to obtain the advice of relevant experts; and

(c) seek to take into account relevant methodologies and principles that apply within other Australian jurisdictions; and

(d) seek to provide consistency with best national and international practices with respect to the setting of targets, the setting of the baseline and determining a method for calculating reductions in greenhouse gas emissions or the generation or use of renewable electricity, insofar as may be reasonably practicable and insofar as these may be relevant to this State.

(6) Section 5(6)—after "section" insert:

(including an interim target set under subsection (2a))

(7) Section 5(7)—before paragraph (a) insert:

(aa) setting an interim target under subsection (2a); or

(8) Section 5(8)—after "section" insert:

, which may be by, or include, publication on the Department's website.

5—Amendment of section 6—Functions of Minister

(1) Section 6(1)(c)—after "policies" insert:

, plans

(2) Section 6(1)(h)—delete "or limit" and substitute:

, limit or prevent

(3) Section 6(1)(o)—delete "government agencies and instrumentalities" and substitute:

public sector entities

(4) Section 6(2)(b)—after "policies" insert:

, plans

6—Amendment of section 7—Two-yearly reports

(1) Section 7(2)(c)—delete "renewable electricity target" and substitute:

targets set by or under section 5

(2) Section 7(2)(d)—delete paragraph (d)

(3) Section 7(2)(f)(i)—after "energy" insert:

sources

7—Amendment of section 11—Functions of Council

(1) Section 11(1)—before "use" insert:

generation and

(2) Section 11(3)(a)(iii)—delete subparagraph (iii) and substitute:

(iii) costs associated with climate change mitigation, climate change adaptation or mitigating the effects of climate change or greenhouse gas emissions; and

(3) Section 11(3)(a)(v)—delete "or reducing or limiting greenhouse gas emissions," and substitute:

, climate change mitigation or climate change adaptation,

8—Amendment of heading to Part 4

Heading to Part 4—after "Policies," insert:

plans,

9—Amendment of section 14—Policies

(1) Section 14, heading—after "Policies" insert:

and plans

(2) Section 14(1)—after "develop" first occurring insert:

, as the Minister thinks fit

(3) Section 14(1)(a)—delete paragraph (a) and substitute:

(a) policies or plans that will assist in—

(i) climate change mitigation to reduce the rate of climate change including to reduce, limit or prevent greenhouse gas emissions, or to mitigate the effects of climate change or greenhouse gas emissions; and

(ii) promoting or implementing measures to facilitate adaptation to circumstances that will inevitably be caused by climate change; and

(iii) outlining how public sector entities should (as, or to the extent, specified in the policy) consider and manage climate related risks in relation to their operations and activities; and

(4) Section 14—after subsection (1) insert:

(1a) The Minister must develop a plan for the reduction of greenhouse gas emissions for the State (a ***statewide emissions reduction plan***) within 2 years of the commencement of this subsection.

(1b) The statewide emissions reduction plan must set out—

(a) the Government's objectives for the reduction of greenhouse gas emissions for the State; and

(b) the Government's policies, programs and other initiatives for reducing, limiting or preventing greenhouse gas emissions,

and may—

(c) refer to, or incorporate, wholly or partially and with or without modification, any other policy or plan that relates to the reduction of greenhouse gas emissions for the State; and

(d) include any other matters the Minister thinks fit.

(1c) The Minister must review the statewide emissions reduction plan such that—

(a) the first review is to be undertaken to coincide, insofar as is reasonably practicable, with the setting of the first interim target for the purposes of section 5(2a)(a); and

(b) further reviews are to be undertaken at least every 5 years following the first review, to coincide, insofar as is reasonably practicable, with the setting of each subsequent interim target under section 5(2a).

(1d) The Minister may vary the statewide emissions reduction plan following a review under subsection (1c), or at any other time, as the Minister thinks fits.

(5) Section 14(2)(d)—before "use" insert:

generation or

(6) Section 14(2)(f)—after "account" insert:

the statewide climate change risk assessment and any

(7) Section 14 (3) and (4)—delete subsections (3) and (4) and substitute:

(3) Subject to this section, the Minister may vary a policy or plan under this section at any time.

(4) The Minister must publish any policy or plan developed under this section (including any policy or plan as varied), which may be by, or include, publication on the Department's website.

(8) Section 14(5)—delete subsection (5) and substitute:

(5) The Minister must, in association with the operation of subsection (4) insofar as it relates to the publication of a policy, give notice of the introduction or adoption of the policy (and any variation of the policy) by notice in the Gazette.

10—Insertion of sections 14A and 14B

After section 14 insert:

14A—Climate change risk assessment for the State

(1) The Minister must, within 2 years of the commencement of this section, prepare a climate change risk assessment for the State (the ***statewide climate change risk assessment***) to support planning by the State Government, local government, various sectors of the State's economy and the community, and the community more generally, to manage climate related risk.

(2) The statewide climate change risk assessment—

(a) must include an assessment of the economic, social and environmental implications of climate change, and the associated risks to economic activity, communities, natural environments and ecosystems, and the health and well-being of the people of the State; and

(b) may include or take account of any other matters that the Minister considers relevant.

(3) The Minister must conduct a review of the statewide climate change risk assessment at least once in every 5 years.

(4) In preparing, or conducting a review of, the statewide climate change risk assessment, the Minister must, insofar as is reasonably practicable, seek to take into account the most up-to-date and best available information on projected impacts of climate change in the State.

(5) The Minister may vary the statewide climate change risk assessment, following a review under subsection (3), or at any other time, as the Minister thinks fits.

(6) The Minister must ensure that an up-to-date copy of the statewide climate change risk assessment is made reasonably available to the public, which may be by, or include, publication on the Department's website.

14B—Plans prepared by public sector entities

(1) The Premier may, by notice in writing to a public sector entity, nominate the entity to prepare a plan with respect to the entity or a specified sector or sectors (or both) for the purpose of addressing either or both of the following:

(a) matters relating to climate change mitigation;

(b) matters relating to climate change adaptation.

(2) A nomination under subsection (1) may—

(a) if the Premier considers it appropriate, having regard to the areas of responsibilities and operations of a public sector entity, nominate 1 or more public sector entities to prepare a joint plan; and

(b) specify the scope and application of the plan (including, in relation to a plan with respect to a sector or sectors, by identifying the sector or sectors to which it is to apply); and

(c) be varied or revoked by the Premier at any time by further notice in writing to the public sector entity.

(3) Subject to this section, a public sector entity that is the subject of a nomination of the Premier under subsection (1) must prepare a plan in accordance with the nomination and any guidelines developed by the Minister under subsection (9).

(4) A plan for a public sector entity or a sector prepared pursuant to a nomination of the Premier under subsection (1)—

(a) should, insofar as is reasonably practicable, provide for policies, programs and other initiatives that are relevant to the functions, activities or areas of responsibility, operations or interests of the entity or sector; and

(b) must be developed having regard to—

(i) the climate related risks that may be relevant to the entity or sector (including any risks identified in the statewide climate change risk assessment); and

(ii) the targets set by or under this Act; and

(iii) any other relevant plans that relate to the entity or sector under this section; and

(iv) any relevant sector agreements under this Act; and

(v) the plans and policies prepared by the Minister under this Act; and

(c) may be varied by the public sector entity or entities that prepared the plan, in accordance with any guidelines developed by the Minister under subsection (9).

(5) A public sector entity that is the subject of a nomination of the Premier under subsection (1) must—

(a) in preparing or varying a plan prepared by the entity, undertake such consultation as the entity considers appropriate after taking into account any guidelines developed by the Minister under subsection (9) that relate to consultation; and

(b) ensure that an up-to-date copy of the plan is made reasonably available to the public, which may be by, or include, publication on the entity's website; and

(c) prepare a report on the implementation of the plan on an annual basis in accordance with any guidelines developed by the Minister under subsection (9).

(6) A public sector entity that is not the subject of a nomination of the Premier under subsection (1) may, after consultation with the Minister, prepare a plan, or prepare a plan jointly with 1 or more other public sector entities, with respect to the entity (or entities) or a particular sector or sectors, for the purpose of addressing either or both of the following:

(a) matters relating to climate change mitigation;

(b) matters relating to climate change adaptation.

(7) A plan referred to in subsection (6)—

(a) may, insofar as is reasonably practicable, provide for policies, programs and other initiatives that are relevant to the functions, activities or areas of responsibility, operations or interests of the entity or sector; and

(b) must be prepared in accordance with any guidelines developed by the Minister under subsection (9); and

(c) may, after consultation with the Minister, be varied or revoked at any time by the public sector entity (or entities) that prepared the plan, in accordance with any guidelines developed by the Minister under subsection (9).

(8) In preparing or varying a plan referred to in subsection (6), the public sector entity must undertake such consultation as the entity considers appropriate after taking into account any relevant guidelines developed by the Minister under subsection (9) that relate to consultation.

(9) The Minister—

(a) may develop guidelines in connection with the preparation, content, variation and operation of a plan under this section, including, without limitation, guidelines that relate to consultation and reporting requirements; and

(b) may vary or revoke any such guidelines at any time; and

(c) must ensure that an up-to-date copy of any guidelines is published on the Department's website.

(10) For the purposes of this section, a reference to a ***sector*** is to be taken to refer to a sector of the State's economy or another related group or area of activity.

11—Amendment of section 16—Sector agreements

(1) Section 16(1)—after "this Act" insert:

or that relate to climate change adaptation (or both)

(2) Section 16(2)(a)—delete paragraph (a) and substitute:

(a) objectives for a particular enterprise or industry, or a particular sector of the State's economy, with respect to climate change mitigation, climate change adaptation or mitigating the effects of climate change or greenhouse gas emissions;

(3) Section 16(4) and (5)—delete subsections (4) and (5)

12—Insertion of section 18A

After section 18 insert:

18A—Status and effect of policies and plans

(1) A policy or plan under this Act is an expression of policy and does not affect rights and liabilities (whether of a substantive, procedural or other nature).

(2) No action may be brought on the basis that an entity has acted in a way that is inconsistent with a policy or a plan under this Act.

(3) No action may be brought on the basis that another instrument is inconsistent with a policy or plan under this Act.

13—Amendment of heading to section 20

Section 20, heading—delete "Administrative unit report" and substitute:

Report of Department

14—Insertion of section 20A

After section 20 insert:

20A—Reports of public sector entities

An annual report that is required to be prepared by a public sector entity (including the Department), other than a report that relates to the financial year in which this section comes into operation, must, to the extent that it is relevant to the operation or activities of the entity, include a report on the manner in which it is addressing matters relating to climate related risks and the reduction of greenhouse gas emissions.

15—Amendment of section 22—Regulations

Section 22(2)(e)—delete "government agencies or instrumentalities" and substitute:

public sector entities