The Parliament of the
Commonwealth of Australia

THE SENATE

Carbon Farming Initiative Amendment Bill 2014

(Amendments to be moved by Senator Xenophon in committee of the whole)

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1, Parts 1 and 2
   A single day to be fixed by Proclamation.
   However, if the provisions do not commence
   within the period of 6 months beginning on
   the day this Act receives the Royal Assent,
   they commence on the day after the end of
   that period.

2A. Schedule 1, Part 2A
    Immediately after the commencement of
    Part 1 of Schedule 1.

2B. Schedule 1, Part 3
    At the same time as the provisions covered
    by table item 2.
    [strategic reserve of emissions units]

(2) Schedule 1, item 51A, page 20 (lines 1 and 2), to be opposed.
    [strategic reserve of emissions units]

(3) Schedule 1, item 68A, page 22 (lines 12 to 15), to be opposed.
    [strategic reserve of emissions units]

(4) Schedule 1, page 106 (after line 32), after Part 2, insert:

Part 2A—Amendments relating to the strategic reserve of emissions units

Division 1—Strategic reserve of emissions units

Carbon Credits (Carbon Farming Initiative) Act 2011

399A At the end of section 3
    Add:
Purchase of international emissions units by the Commonwealth

(6) The fifth object of this Act is to authorise the purchase by the Commonwealth of international emissions units to assist Australia to meet its international climate change targets.

399B Section 5

Insert:

international climate change agreement means:
(a) the Climate Change Convention; or
(b) the Kyoto Protocol; or
(c) an international agreement (if any) that is the successor (whether immediate or otherwise) to the Kyoto Protocol.

For the purposes of the application of the definition of Kyoto Protocol to paragraph (b), if the Doha Amendment is not in force for Australia, the Doha Amendment is taken to be in force for Australia.

strategic reserve contract has the meaning given by section 284B.

strategic reserve unit means a Kyoto unit, but does not include a unit specified in the legislative rules.

399C After Part 27

Insert:

Part 27A—Purchase and sale of strategic reserve units by the Commonwealth

284A Simplified outline of this Part

- Kyoto units may be purchased or sold by the Commonwealth.

284B Purchase and sale of strategic reserve units

(1) The Regulator may, on behalf of the Commonwealth, enter into contracts for the purchase or sale by the Commonwealth of strategic reserve units.

(2) For the purposes of this Act, a contract entered into under subsection (1) is to be known as a strategic reserve contract.

Ministerial directions

(3) The Regulator must not enter into a strategic reserve contract, or a series of strategic reserve contracts, unless directed to do so by the Minister under subsection 284F(1).

(4) In exercising the power to give a direction of a kind mentioned in subsection (3), the Minister must have regard to the following matters:
   (a) Australia’s obligations under international climate change agreements;
   (b) Australia’s undertakings that:
      (i) concern the reduction of greenhouse gas emissions; and
(ii) are given under international climate change agreements;
(c) the total amount of domestic carbon abatement that would result from the purchase of eligible carbon credit units by the Commonwealth under carbon abatement contracts;
(d) Australia’s current and future climate change targets;
(e) the need to ensure the value for money of expenditure incurred by the Commonwealth in purchasing strategic reserve units under strategic reserve contracts;
(f) such other matters (if any) as the Minister considers relevant.

**Spending limit**

(5) The total amount of expenditure incurred by the Commonwealth in purchasing strategic reserve units under strategic reserve contracts must not exceed $500 million.

284C **When the Regulator has powers etc. of the Commonwealth**

(1) The Regulator, on behalf of the Commonwealth, has all the rights, responsibilities, duties and powers of the Commonwealth in relation to the Commonwealth’s capacity as a party to a strategic reserve contract.

(2) Without limiting subsection (1):
   (a) an amount payable by the Commonwealth under a strategic reserve contract is to be paid by the Regulator on behalf of the Commonwealth; and
   (b) an amount payable to the Commonwealth under a strategic reserve contract is to be paid to the Regulator on behalf of the Commonwealth; and
   (c) the Regulator may institute an action or proceeding on behalf of the Commonwealth in relation to a matter that concerns a strategic reserve contract.

(3) The Regulator may exercise a power conferred on the Regulator by a strategic reserve contract.

284D **Legislative rules may provide for certain matters relating to strategic reserve units etc.**

The legislative rules may make provision for and in relation to any or all of the following matters in respect of strategic reserve units purchased by the Commonwealth under strategic reserve contracts:
   (a) transferring purchased units to a specified Commonwealth Registry account;
   (b) prohibiting or restricting the transfer of units from such an account.

Note: For designation of Commonwealth Registry accounts, see section 12 of the Australian National Registry of Emissions Units Act 2011.

284E **Strategic reserve contracts are not instruments made under this Act**

To avoid doubt, a strategic reserve contract is taken not to be an instrument made under this Act.

284F **Minister may give directions**

(1) The Minister may, by legislative instrument, give directions to the Regulator in relation to the exercise of the Regulator’s powers under this Part.
(2) The Regulator must comply with a direction under subsection (1).

284G Annual reports about management of the strategic reserve of emissions units

(1) After the end of each financial year, the Regulator must prepare a report setting out:
   (a) the total number of strategic reserve units that were purchased by the Commonwealth during the financial year under strategic reserve contracts; and
   (b) the total number of strategic reserve units that were sold by the Commonwealth during the financial year under strategic reserve contracts; and
   (c) such other information relating to strategic reserve units held by the Commonwealth as is specified in the legislative rules.

(2) A report under subsection (1) of this section for a financial year must be included in the annual report prepared by the Regulator and given to the Minister under section 40 of the Clean Energy Regulator Act 2011 for the financial year.

Division 2—Consequential amendments

Australian National Registry of Emissions Units Act 2011

399D Section 4

Insert:

Commonwealth foreign registry account has the meaning given by section 86A.

399E Before section 87

Insert:

86A Commonwealth foreign registry accounts

(1) The Commonwealth may:
   (a) open and operate an account within a foreign registry; and
   (b) do anything incidental to, or ancillary to, the opening or operation of such an account.

(2) An account opened under subsection (1) is to be known as a Commonwealth foreign registry account.

Regulator’s power to act on behalf of the Commonwealth

(3) The Regulator may act on behalf of the Commonwealth in relation to the powers conferred by subsection (1).

(4) The Minister may, by legislative instrument, give directions to the Regulator in relation to the Regulator’s powers under subsection (3).

Note 1: For variation and revocation, see subsection 33(3) of the Acts Interpretation Act 1901.

Note 2: Section 42 (disallowance) and Part 6 (sunsetting) of the Legislative Instruments Act 2003 do not apply to the direction (see sections 44 and 54 of that Act).
(5) The Regulator must comply with a direction under subsection (4).

[**strategic reserve of emissions units**]