Clean Energy Legislation (Carbon Tax Repeal) Bill 2013
[No. 2] [and associated Bills]

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This is a revised and shortened version of a number of Bills Digests that were prepared for earlier versions of the carbon tax repeal Bills. For completeness the reader should consult both this Bills Digest and those prepared for the previous Bills.

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Date introduced: 23 June 2014
House: House of Representatives
Portfolio: Environment, Immigration and Border Protection, and Treasury
Commencement: The commencement of each Bill is specified in subclause 2(1) of each Bill. The primary objective of the package of Bills, the repeal of the carbon pricing mechanism, is to be effective from 1 July 2014.

Links: The links to each Bill, its Explanatory Memorandum and second reading speech can be found on each Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation
When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.
The Bills Digest at a glance

This Bills Digest examines the package of Bills collectively known as the carbon tax repeal package, introduced into the Parliament for the second time in June 2014. This Digest provides updates to policy developments since these Bills were introduced for the first time in November 2013.

What the Bills do

The 11 Bills examined in this Digest perform a number of functions:

• Abolish the carbon pricing mechanism, effective from 1 July 2014.
• Remove the equivalent carbon price applied to synthetic greenhouse gases, aviation fuels and fuels used in certain activities from 1 July 2014.
• Abolish the Climate Change Authority and transfer some of its functions to the Minister for the Environment.
• Abolish the Clean Energy Finance Corporation and transfer its existing assets and liabilities to the Commonwealth.
• Repeal certain personal income tax changes associated with the clean energy package.

Why has the Government introduced these Bills?

The Coalition Government committed prior to the 2013 general election to repeal the carbon tax. The Government considers that the carbon pricing mechanism (CPM) imposes an unacceptable economic cost and does not believe that it is the best instrument to reduce Australia’s greenhouse gas emissions. The Government has proposed its Direct Action Plan as an alternative policy, where the Commonwealth will pay for businesses to reduce or offset their emissions, through an Emissions Reduction Fund.

What the issues are

For a detailed discussion of the provisions of these Bills, readers are referred to the original Digests for these Bills.

• Some people argue that the carbon pricing mechanism has been effective at constraining Australia’s greenhouse gas emissions, and believe it should not be removed.
• Some people are concerned that the CPM is not being replaced by an effective climate change mitigation policy.
• The abolition of the Climate Change Authority removes an independent body, which is bound to give transparent and evidence-based advice on climate change matters.
• The Clean Energy Finance Corporation is a profit-making, Government-owned company that provides concessional finance for low-emissions investment, and leverages significant private-sector investment. A wide range of groups are opposed to its abolition.

Developments since the last Digests

• The Palmer United Party (PUP) has clarified its position on the repeal; it will support the abolition of the current CPM, but will work towards the implementation of an emissions trading scheme that commences once similar schemes are in operation amongst Australia’s main trading partners. PUP will oppose the abolition of the Climate Change Authority and the Clean Energy Finance Corporation, meaning that these proposals are unlikely to succeed.
• There continue to be developments in carbon pricing around the world, including the full implementation of seven pilot emissions trading schemes in China.
### History of the Bills

A package of Bills, collectively known as the carbon tax repeal Bills, were introduced into the House of Representatives on 13 November 2013 and subsequently passed that House without amendment on 21 November 2013.\(^1\) This package of Bills included 11 separate Bills which sought to repeal and amend a range of arrangements relating to the carbon pricing mechanism (CPM) (Table 1).\(^2\)

#### Table 1  Bills included as part of the 2013 carbon price repeal package

<table>
<thead>
<tr>
<th>Bills</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clean Energy Legislation (Carbon Tax Repeal) Bill 2013</td>
<td>Repeals the <strong>Clean Energy Act 2011</strong>, the main piece of legislation that established the CPM. Also facilitates the collection of liabilities relating to the 2013–14 financial year; introduces new powers for the ACCC and removes assistance to the steel industry by repealing the <strong>Steel Transformation Plan Act 2011</strong>.</td>
</tr>
<tr>
<td>True-up Shortfall Levy (General) (Carbon Tax Repeal) Bill 2013</td>
<td>Apply consequential amendments required by the main repeal Bill to recover the value of over-allocated free emissions permits that provide assistance to energy intensive trade-exposed activities under the CPM.</td>
</tr>
<tr>
<td>True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Bill 2013</td>
<td></td>
</tr>
<tr>
<td>Customs Tariff Amendment (Carbon Tax Repeal) Bill 2013</td>
<td>Repeal provisions that apply an equivalent carbon price to aviation fuel and synthetic greenhouse gases.</td>
</tr>
<tr>
<td>Excise Tariff Amendment (Carbon Tax Repeal) Bill 2013</td>
<td></td>
</tr>
<tr>
<td>Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Carbon Tax Repeal) Bill 2013</td>
<td>Apply transitional arrangements for the import of bulk synthetic greenhouse gases between 1 April and 30 June 2014.</td>
</tr>
<tr>
<td>Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Carbon Tax Repeal) Bill 2013</td>
<td></td>
</tr>
<tr>
<td>Clean Energy (Income Tax Rates and Other Amendments) Bill 2013</td>
<td>Repeals personal income tax cuts set to commence on 1 July 2015, and repeals the associated amendments to the low-income tax offset.</td>
</tr>
<tr>
<td>Climate Change Authority (Abolition) Bill 2013</td>
<td>Abolishes the Climate Change Authority and the Land Sector Carbon &amp; Biodiversity Board.</td>
</tr>
</tbody>
</table>

The Senate debate separately considered the Clean Energy Finance Corporation (Abolition) Bill 2013 and the Climate Change Authority (Abolition) Bill 2013 from the other Bills. Consideration of the package of Bills (except the Clean Energy Finance Corporation (Abolition) Bill 2013 and Climate Change Authority (Abolition) Bill 2013)

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1. Links to the previous Bills, Explanatory Memoranda, second reading speeches and the relevant Bills Digest can be found on the previous Bills’ homepages.
2. The carbon pricing mechanism (CPM) is the title of the broad carbon pricing scheme implemented by the former Government. This terminology was used in the original policy document that announced the details of carbon pricing arrangements: Australian Government, *Securing a clean energy future: the Australian Government’s climate change plan*, July 2011, p. 103, accessed 30 June 2014.
included debate on amendments proposed by the Australian Labor Party (ALP)—essentially bringing forward the commencement date of a flexible price emissions trading scheme from 1 July 2015 to 1 July 2014—were concluded on 20 March 2014 with the Senate rejecting the Bills.³

**Climate Change Authority (Abolition) Bill 2013**

The Senate’s separate consideration of the Climate Change Authority (Abolition) Bill 2013 concluded on 3 March 2014 with the Senate rejecting the Bill.⁴

**Clean Energy Finance Corporation (Abolition) Bills**

The Senate’s separate consideration of the Clean Energy Finance Corporation (Abolition) Bill 2013 concluded on 10 December 2013 with the rejection of the Bill.⁵ The Government re-introduced that Bill, as the Clean Energy Finance Corporation (Abolition) Bill 2013 [No. 2], to the House of Representatives on 20 March 2014. It was subsequently rejected by the Senate on 18 June 2014.⁶

**Current package of carbon tax repeal Bills**

The present package of carbon tax repeal Bills replicates the framework of the 2013 carbon tax repeal package of Bills. The relevant Bills in the current package are:


Readers are referred to five separate Bills Digests that were published for the 2013 carbon tax repeal package of Bills for a detailed analysis of the provisions of the Bills (which are replicated in the current Bills) and the issues they raise:

- [Main Repeal Bill]³
- [Equivalent carbon price arrangements on aviation fuel and synthetic greenhouse gases]⁸
- [Income tax changes]⁹

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• Climate Change Authority abolition¹⁰ and
• Clean Energy Finance Corporation abolition.¹¹

Double dissolution election trigger

Except for the Clean Energy Finance Corporation (Abolition) Bill 2014, which includes a new Division 9 in Part 3 of that Bill, the Bills included in the current package of carbon tax repeal Bills have been presented in identical terms to those in the 2013 package of carbon tax repeal Bills. Should the Senate reject any of the duplicate Bills again, they could potentially become a trigger for a double dissolution election. Section 57 of the Constitution¹² provides that each of the following steps must be satisfied for a Bill to be a double dissolution trigger:

• step 1: the House of Representatives passes a proposed law
• step 2: the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree
• step 3: after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate
• step 4: the Senate rejects or fails to pass the law, or passes it with amendments to which the House of Representatives will not agree and
• step 5: the Governor-General may dissolve the Senate and the House of Representatives simultaneously; a step that would, by convention, normally be taken only on the advice of the Prime Minister.

A Bill must fail twice in the Senate to become a 'trigger' for a possible double dissolution election. It may be re-introduced at any time within a Parliamentary term, but there must be a minimum interval of three months between the first failure in the Senate and the passage of the Bill in the House of Representatives the second time. For further information on double dissolution triggers, see this Background Note on the topic.¹³

The Government already has a double dissolution trigger, as the Clean Energy Finance Corporation (Abolition) Bill 2013 and the Clean Energy Finance Corporation (Abolition) Bill 2013 [No. 2], which were in identical terms, have both been negatived by the Senate.¹⁴

One of the options available to the Government to pass legislation, where there is persistent disagreement between the Houses, is to present the legislation to a joint sitting of the Parliament following a double dissolution election. If the Bills are not passed in the normal way after a double dissolution election, the Bills may be considered by the Parliament in joint sitting. In this special sitting, the Government's numbers in the House of Representatives could eclipse its opposition in the Senate.¹⁵ In order for Bills to be included in the joint sitting, each Bill must have been rejected twice by the Senate prior to the double dissolution election.¹⁶

Therefore, even if the Government possesses a double dissolution trigger (which it does), and intends to use it, it

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may wait until all of its critical legislation has been rejected twice before calling a double dissolution election. This would enable the consideration of all of this legislation by a joint sitting of Parliament.

**Composition of the Senate**

The passage of the Bills discussed in this Digest through the Senate requires the Government to secure 39 votes. From 1 July 2014, the composition of the Senate will be as follows:

- Coalition - 33
- Australian Labor Party - 25
- Australian Greens - 10
- Palmer United Party (Senators Glenn Lazarus, Jacqui Lambie and Dio Wang) - 3
- Independent (Senator Nick Xenophon) - 1
- Democratic Labour Party (Senator John Madigan) - 1
- Liberal Democratic Party (Senator David Leyonhjelm) - 1
- Family First (Senator Bob Day) – 1 and
- Australian Motoring Enthusiast Party (Senator Ricky Muir) – 1.

Although there is a memorandum of understanding between the Palmer United Party (PUP) and the Australian Motoring Enthusiast Party to work together, the parties are not bound by that document to vote together. There are a number of possible voting combinations in the 2014–17 Senate, which yield different outcomes. Assuming that senators vote along party lines:

- if the Australian Labor Party and the Australian Greens oppose any of the Government’s Bills, the Government will require the support of six of the eight cross-bench senators to pass that Bill
- if the ALP, the Greens and PUP vote against a Bill, it will be rejected by the Senate
- if either the ALP or the Greens support a Government Bill, it will pass and
- if the PUP supports a Government Bill, but the ALP and Greens do not, the Government requires the support of three of the remaining five cross-bench senators to pass the Bill.

In general, the ALP and the Australian Greens oppose the whole package of legislation to repeal the carbon pricing mechanism, but the other cross-bench senators largely support the repeal of the CPM. The positions of the other cross-bench senators on the abolition of the Climate Change Authority and the Clean Energy Finance Corporation is not completely clear, although PUP has clarified its position to oppose these measures (see later section on the **new position of the Palmer United Party**).

**The Government’s indicated climate change policy approach**

As part of its ‘Direct Action Plan’, the Coalition Government has signalled its intention to remove the carbon pricing mechanism and replace it with a modified baseline-and-credit scheme. This package of legislation is one component of that course of action. The Coalition’s replacement policy consists of the following elements:

1. An Emissions Reduction Fund (ERF), through which the Government will purchase domestic greenhouse gas emissions reductions and offsets by reverse auction. The Government has introduced legislation to enable
the ERF in the **Carbon Farming Initiative Amendment Bill 2014**, and plans to spend $1.15 billion between 2014–15 and 2017–18 on this program.\(^{21}\)

2. An emissions safeguard mechanism, which will constrain large emitters of greenhouse gases from exceeding historical emissions baselines. This component of the policy appears to still be under development at the time of writing, and will not commence operation until at least 1 July 2015.\(^{22}\)

3. A Solar Towns initiative, where community groups will be allocated grants to install solar photovoltaic cells or solar water heaters. This initiative was initially intended to support at least 25 towns with a maximum of $2 million per town, but was scaled back in the 2014–15 Budget to cover just eight areas with of $2.1 million provided to cover all of those eight areas.\(^{23}\)

4. A ‘Twenty Million Trees’ program, where the Government would provide funding for the planting of twenty million new trees by 2020 in urban forests and green corridors.\(^{24}\) In the 2014–15 Budget, the Government indicated that $50 million from the ‘National Landcare Programme’ would be redirected towards this initiative.\(^{25}\)

5. A Solar Schools initiative, where at least 100 schools would be provided with up to $500,000 each to install solar photovoltaic panels or solar water heaters.\(^{26}\) The Government did not proceed with this initiative in the 2014–15 Budget.

6. A ‘One million solar roofs’ program, where one million householders would receive a $500 rebate to install solar hot water heaters or photovoltaic panels.\(^{27}\) The Government did not proceed with this initiative in the 2014–15 Budget.

The Government maintains that it will be able to meet its emissions reduction target under the Kyoto Protocol (of a five per cent reduction in greenhouse gas emissions by 2020, compared to 2000 levels), using the remaining elements of the Direct Action Plan.\(^{28}\) For a detailed discussion of the merits of the Direct Action Plan and the carbon pricing mechanism, see the previous Bills Digest for the main repeal Bill.\(^{29}\)

### International and domestic policy developments

Since the Bills Digests on the previous set of Bills were written, there have been a number of developments in climate change policy around the world.

**New position of the Palmer United Party**

Since the time of writing the previous Bills Digest, the position of the Palmer United Party (PUP) has been further clarified. In an announcement on 25 June 2014, Clive Palmer (Leader of the PUP) announced that PUP senators would vote to ‘abolish the carbon tax’ and move an amendment to the repeal legislation to ensure that energy suppliers passed on to consumers in full any savings realised from the abolition of the CPM.\(^{30}\) Mr Palmer also announced that the PUP would oppose the abolition of the Clean Energy Finance Corporation and oppose any changes to the Renewable Energy Target before the next election. Mr Palmer further announced that PUP would move to amend the Climate Change Authority (Abolition) Bill 2014

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27. Ibid.


to institute an emissions trading scheme, which would lie dormant until such time as Australia’s major trading partners instituted a comparable scheme.\textsuperscript{31}

Although the proposed move by PUP to establish a new emissions trading scheme (ETS) would appear to be at odds with its decision to vote to abolish the current CPM, the conditions for the activation of the Palmer ETS mean that it is unlikely to be in force in the foreseeable future. (For further information, see later section in this Digest on status of emissions trading schemes amongst Australia’s trading partners.) For example, the United States has historically been hostile towards emissions trading for greenhouse gases, and in 2011 passed legislation designed to prohibit US airlines from participating in the European Union’s ETS.\textsuperscript{32} This makes a national ETS in the United States, part of Mr Palmer’s conditions, unlikely in the foreseeable future.

**Carbon pricing around the world**

In May 2014, the World Bank Group published *State and Trends of Carbon Pricing 2014*, which examines the implementation of carbon pricing instruments (such as carbon taxes and emissions trading schemes) around the world. The report concluded that ‘The reach of carbon pricing is steadily increasing’, and that:

> Today, about 40 countries and over 20 sub-national jurisdictions are putting a price on carbon. Together, these carbon pricing instruments cover almost 6 gigatons of carbon dioxide equivalent (GtCO\textsubscript{2}e) or about 12% of the annual global [greenhouse gas] emissions.\textsuperscript{33}

These jurisdictions are shown in Figure 1 below:

\textsuperscript{31} Ibid.
Figure 1 - National and sub-national jurisdictions with a carbon pricing instrument implemented, scheduled or under consideration


The World Bank characterised Australia’s decision to remove its carbon pricing mechanism as a ‘significant setback’.  

Since the last set of Bills Digests were written (November 2013), there have been developments in several countries regarding carbon pricing:

• China has completed the implementation of all seven of its pilot emissions trading schemes, the final pilot municipality (Chongqing) launched its scheme on 19 June 2014.

• the Prime Minister of Canada, Stephen Harper, reaffirmed his country’s opposition to placing a price on greenhouse gas emissions during a visit in June 2014 by the Australian Prime Minister, Tony Abbott.

Mr Abbott reportedly floated the idea at this time of forming an alliance of nations lead by conservative

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34. Ibid., p. 27.
35. It should be noted that the seven pilot emissions trading schemes, while broadly similar, do have design and operational differences which are in part informed by the differences in local economic context.
governments (including the United Kingdom and New Zealand) against carbon pricing, but the UK and New Zealand reportedly rejected the idea\(^\text{38}\) and

- the **United States** Environmental Protection Authority has developed emissions performance standards for new and existing power generation facilities, as new rules created under that country’s *Clean Air Act*. The standards will commence operation in 2016, after a period of consultation. Under these standards, each state will be required to meet an average emissions-intensity target (tonnes of carbon dioxide emitted per megawatt-hour of electricity generated) for its power stations. Each state will have the flexibility to meet its target as it sees fit, but it is expected that existing sub-national emissions trading schemes will be used by some states to help meet their targets. It has been claimed that by 2030 these targets will reduce greenhouse gas emissions from electricity generation by up to 30 per cent compared to 2005 levels.\(^\text{39}\)

**Status of emissions trading schemes amongst Australia’s trading partners**

The PUP has announced its support for an emissions trading scheme in Australia, slated to commence only once Australia’s ‘major trading partners’ had implemented such a scheme themselves. According to the Department of Foreign Affairs and Trade, the following countries are part of Australia’s top ten export markets, import sources or two-way trading partners in 2013: China, Germany, India, Japan, Malaysia, New Zealand, Republic of Korea, Singapore, Taiwan, Thailand, the United Kingdom and the United States.\(^\text{40}\) The position of these countries in relation to an ETS and carbon tax is set out in Table 2, below.

**Table 2** Status of greenhouse gas emissions trading schemes used by Australia’s major trading partners

<table>
<thead>
<tr>
<th></th>
<th>Mandatory national ETS</th>
<th>Mandatory sub-national ETS</th>
<th>Voluntary ETS</th>
<th>Separate carbon tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Yes (under current legislation - fixed price period 2012–15, then flexible prices)</td>
<td>N/A</td>
<td>N/A</td>
<td>No</td>
</tr>
<tr>
<td>China</td>
<td>No – under consideration</td>
<td>Yes – 7 pilot schemes in operation</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Germany</td>
<td>Yes – EU ETS</td>
<td>N/A</td>
<td>N/A</td>
<td>Energy taxes on gas and electricity</td>
</tr>
<tr>
<td>India</td>
<td>No, but other schemes</td>
<td>No, but mandatory sub-national ETS for particulates</td>
<td>No</td>
<td>National ‘clean energy’ tax on coal</td>
</tr>
<tr>
<td>Japan</td>
<td>No</td>
<td>Yes – Tokyo and Saitama</td>
<td>No (previous Japanese Voluntary ETS ended in 2012)</td>
<td>Yes – ‘Tax for Climate Change Mitigation’</td>
</tr>
<tr>
<td>Malaysia</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>New</td>
<td>Yes</td>
<td>N/A</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>


\(^{40}\) Department of Foreign Affairs and Trade (DFAT), *Australia’s trade in goods and services 2013*, DFAT website, 20 May 2014, accessed 2 July 2014.
<table>
<thead>
<tr>
<th></th>
<th>Mandatory national ETS</th>
<th>Mandatory sub-national ETS</th>
<th>Voluntary ETS</th>
<th>Separate carbon tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zealand</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Korea</td>
<td>Yes, from 2015</td>
<td>N/A</td>
<td>N/A</td>
<td>No</td>
</tr>
<tr>
<td>Taiwan</td>
<td>No – under consideration</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Thailand</td>
<td>No</td>
<td>No</td>
<td>No – under consideration</td>
<td>No</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Yes – EU ETS</td>
<td>N/A</td>
<td>N/A</td>
<td>Yes – Climate Change Levy and Carbon Price Floor</td>
</tr>
<tr>
<td>United States</td>
<td>No</td>
<td>Yes – Western Carbon Initiative and Regional Greenhouse Gas Initiative</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>


Further notes on selected countries

**China**

On 18 June 2013 China’s first pilot ETS was launched in the Special Economic Zone of Shenzhen. In late November 2013, the municipalities of Beijing and Shanghai introduced an ETS. On 10 December 2013, Guangdong province, China’s largest province with a population of more than 100 million, capped greenhouse gas emissions and issued carbon permits to large polluters. On 26 December 2013, Tianjin launched its ETS. In April 2014 Hubei province launched China’s sixth regional carbon market, followed by Chongqing in June 2014.

Emissions trading schemes are one of a variety of measures being used by China to tackle greenhouse gases. Previously, China mainly relied on a patchwork of government regulations or interventions to control and indirectly price carbon emissions. In a submission to the World Bank in 2013, China indicated that that the country would gradually move towards a national ETS which would rely on existing market infrastructures developed for offsets trading; however no official timetable has been provided for a national ETS.

Recently, China and the EU launched a three-year cooperation on a Carbon Emissions Trading Scheme during the China-EU bilateral dialogue on climate change held on 20 May 2014. The EU will contribute five million euros to the project. By moving to an ETS, China seems to be following the recommendations of the International Monetary Fund (IMF) and World Bank for countries to adopt an ETS not only for the purposes of cutting emissions, but also to act as an income source for the national budget. As China moves toward a national ETS...
the Vice President of China’s most advanced carbon emissions exchange has expressed disappointment that Australia is seeking to repeal its Clean Energy legislation. A key driver of China’s implementation of lower-emissions technology is the significant air pollution problems that beset its largest cities. Coal-fired power generation is seen within China as being responsible for high levels of airborne fine particulate matter, and the Chinese Government is reportedly spending around AUD300 billion between 2013–17 to combat the problem. Chinese officials have reportedly even proposed a flat carbon tax on coal to discourage its use. In addition, China is aggressively pursuing investments in renewable energy—it was reported that in the first ten months of 2013, China added 11.5 gigawatts of wind and solar generation capacity. In context, Australia’s total renewable energy generation capacity was 10.2 gigawatts in 2012.

At the time of the first Chinese ETS commencing, the Climate Institute drew up the following comparison of the climate change policies of Australia and China:

![Figure 2 – Comparison of Chinese and Australian climate change policies in 2013](image)


**India**

Although India is not currently pursuing a national greenhouse gas emissions trading scheme, it has moved forward with its Perform, Achieve and Trade energy savings scheme. This program, part of India’s 2008 National Action Plan on Climate Change, imposes mandatory energy-savings targets on businesses in specified energy-intensive industries. If participants exceed targets, they may trade certificates with participants who do not. The scheme’s target is to save 6.6 million tonnes of oil-equivalent in its first three years of operation.

India has instituted three state-level emissions trading schemes to control particulate matter pollution; it is envisioned that these may serve as precursors for a wider scheme that includes greenhouse gas emissions as well.\(^{52}\)

**Japan**

Japan has continued to dis-engage with international climate change efforts after refusing to nominate a target for the second commitment period of the Kyoto Protocol, along with Canada, New Zealand and Russia.\(^{53}\) Despite proposing an emissions trading scheme in 2010, the Japanese Government has not progressed plans to implement a national scheme. This has meant that the previously operational Japanese Voluntary Emissions Trading Scheme, which was part of an experimental trial phase for a national ETS, has ceased without a replacement.\(^{54}\) Japan’s reticence to introduce a national ETS has been due to uncertainty over whether Australia and the United States would implement strong climate change policies.\(^{55}\) However, Japan’s energy policy remains uncertain in the wake of the Fukushima nuclear disaster, which saw Japan lower its greenhouse gas emissions reductions target from a 25 per cent reduction on 1990 levels to a 3.1 per cent increase on 1990 levels.\(^{56}\) Sub-national ETSs in Tokyo and Saitama, which focus on energy usage in industrial, commercial and transport sectors, continue operation. These schemes together cover around 2,000 facilities, and early results from the Tokyo scheme suggest that it is proving effective in reducing emissions.\(^{57}\)

**United States**

The power plant emissions standards mentioned earlier is part of a broader Climate Action Plan being pursued by the Obama administration, which includes strengthening energy efficiency standards for buildings and equipment, emissions standards for heavy trucks, requiring all federal agencies to source 20 per cent of their electricity from renewables by 2020 and introducing tougher regulations to reduce methane emissions from oil and gas production.\(^{58}\) The imposition of power-plant emissions performance standards is expected to significantly increase participation in emissions trading schemes that exist at a sub-national level in the United States. The first auction of greenhouse gas allowances in the Regional Greenhouse Gas Initiative after the proposed emissions standards were released, sold out at a record high price.\(^{59}\)

**Canada**

Despite Canada’s national Government remaining opposed to carbon pricing, subnational schemes continue. Québec retains the emissions trading scheme which commenced in 2012 and is modelled on the architecture created by the Western Climate Initiative.\(^{60}\) Currently, Québec’s ETS covers electricity and industrial greenhouse gas emissions. From 2015, its scope will be expanded to include emissions from fossil fuels distribution. Thus it is expected to cover around 85 per cent of Québec’s GHG emissions. Also, offset protocols have been approved for the destruction of GHGs from landfill waste, manure storage areas, and ozone depleting substances contained in refrigerating appliances. Québec’s Cap-and-Trade Regulation set the minimum price for allowances sold at auction on 3 December 2013 at 10.75 CAD. The price is set to increase annually by five per cent plus inflation until 2020. In October 2013, Québec and California\(^{61}\) signed an agreement to link their respective schemes from

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55. Ibid.
60. *The Western Climate Initiative (WCI) is a collaborative effort of seven US states and four Canadian provinces to identify, evaluate, and implement measures to reduce greenhouse gas (GHG) emissions in participating jurisdictions. The WCI has a regional GHG target of 15 per cent below 2005 levels by 2020 that will be met through a regional market-based multi-sector mechanism, as well as other policies.‘ Centre for Climate and Energy Solutions, ‘Western climate initiative’, website, accessed 1 July 2014.
61. For a quick outline of California’s Cap and Trade Scheme, see Centre for Climate and Energy Solutions, *California cap and trade*, website, accessed 1 July 2014.
1 January 2014. Once linked, they will hold joint auctions of carbon emission allowances which can be used for compliance in either jurisdiction. The first joint auction of emission allowances is expected in 2014.62

United Kingdom

The United Kingdom is part of the EU ETS, but also imposes its own, separate carbon tax, to maintain a relatively constant carbon price in the face of fluctuating EU carbon allowance prices. This ‘carbon price floor’ is designed to rise from GBP £16 (AUD $30) per tonne of carbon dioxide-equivalent in 2013 to GBP £30 (AUD $54.50) per tonne by 2020. However, the UK Government decided to cap the carbon price floor at GBP £18 from 2016 to 2020 as a response to consistently low EU allowance prices.63

South Korea

South Korea is now close to the introduction of its own ETS. Unlike Australia’s ETS, South Korea’s ETS will commence directly into a floating-price, after an initial three-year period when all carbon permits will be provided for free. The first permit auctions will occur in 2018, which means that it is difficult to project what prices will be at that time.64 The coverage of South Korea’s scheme is broadly similar to Australia’s, with similar thresholds for mandatory entry.65

New Zealand

New Zealand’s existing emissions trading scheme continues to have very low pricing, and will be reviewed in 2015.66 In the interim, the New Zealand Green Party proposed abolishing that country’s ETS and replacing it with a carbon tax.67 This plan was not accepted by either the Government or the Labour opposition.68

Vietnam, Thailand and Indonesia

Despite not having targets under the Kyoto Protocol, there are reports that Vietnam, Indonesia and Thailand, who are significant trading partners with Australia, are considering voluntary emissions trading schemes, with the assistance of the World Bank’s Partnership for Market Readiness.69 However, few details about these schemes are available. There are suggestions that Thailand will launch a limited scheme focussed on energy consumption and greenhouse gas emissions in the energy sector,70 but whether this continues in the face of growing political instability in the country is unclear.

Global carbon prices

As noted above, there are a number of active emissions trading schemes in which the ‘price’ of emissions is set in government auctions of permits or in secondary trading markets (which can include exchange traded emissions permits as well as over-the-counter trades). While formal linking between national schemes is yet to occur across countries (except for the one-way link allowing for EU ETS units to be used in the Australian ETS), prices in these markets can nevertheless provide some price signals that may influence the Australian ETS should one commence from 1 July 2015 or a later year.

The original expectation in transitioning to an ETS in Australia from 1 July 2015 was that prices would continue to increase, moving to a ‘flexible world price’ of $29 in 2015–16 and then continuing to rise beyond this.71 However, carbon prices in operating ETSs have not approached such levels, but rather have remained substantially below these levels, making the price in Australia since 2012–13 comparatively high.

69. World Bank Group, State and trends in carbon pricing, op. cit., p. 70.
European Union ETS
Prices for EUAs, the main type of permits used in the EU ETS, are currently around €6 per tonne (approximately $A8.70). Prices for Clean Development Mechanism units (CERs) created under the Kyoto Protocol (some of which can be used for compliance in the EU ETS subject to quantitative limits) are currently around €0.1 per tonne (approximately $A0.15).72 In recent years the price of EUAs and expectations of future prices have largely been driven by proposed policies to deal with the overall allocation of permits and longer term targets.73

Other significant carbon markets
Carbon prices per tonne of emissions in selected mandatory ETSs are also below the price under current arrangements in Australia, with a price of around $A13.50 under the California ETS, $A4.50 in the Regional Greenhouse Gas Initiative (nine North-east and Mid-Atlantic US States) and $A3.20 under the New Zealand ETS in early 2014.74

Targets and progress review
In February 2014, the Climate Change Authority released its 2014 Targets and Progress Review, as required by the Clean Energy Act 2011. This report was originally intended to inform the setting of the greenhouse gas emissions caps for the early flexible-price years of the carbon pricing mechanism from 2015–16 onwards and the setting of Australia’s longer-term emissions targets, and report on progress made in achieving those targets to date.75

For the second commitment period of the Kyoto Protocol (2013–2020), Australia committed to an unconditional greenhouse gas emissions reduction of five per cent compared to 2000 levels by 2020, with the possibility of a 15 or 25 per cent target depending on the level of comparable international action.76 The Authority’s report concluded that some of the conditions laid down for a move to a 15 per cent reduction target had been met, although others were marginal. It argued that a five per cent target was now an inadequate contribution by Australia to an internationally agreed goal of limiting warming to two degrees or less and recommended that the Government increase its target to a 19 per cent reduction on 2000 levels.77 This reasoning was partially based on bringing Australia’s target more closely into line with other developed economies like the United States and European nations.78

Main repeal Bills package
This section provides an overview of, and developments to, the main repeal Bills package (being the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 [No. 2], the True-up Shortfall Levy (General) (Carbon Tax Repeal) Bill 2013 [No. 2] and the True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Bill 2013 [No. 2]). For an in depth discussion of the main repeal Bills package, readers are directed to the original Bills Digest. Key points from that Digest are summarised below.79

Purpose and structure of the Bills

- The three Bills repeal the Clean Energy Act 2011 and associated legislation. The main repeal Bill, the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 [No. 2] repeals or amends Acts that legislate a price on carbon to remove that function; empowers the Australian Competition and Consumer Commission (ACCC) to monitor for price exploitation in relation to the carbon price repeal; removes a 15 per cent tax offset for conservation tillage; ends assistance to the steel industry in relation to a carbon price; and reduces funding to the Australian Renewable Energy Agency (ARENA).

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72. World Bank Group, op. cit., p. 56.
73. Ibid.
74. Ibid., pp. 57, 58 and 62; Exchange rates taken from Reserve Bank of Australia (RBA) and calculated using the average daily rate for relevant month (RBA, "Statistical tables: exchange rates", RBA website, accessed 30 June 2014.
77. Climate Change Authority, Targets and progress review, op. cit., pp. 10–11.
78. Ibid.
• The other two Bills, the True-up Shortfall Levy (General) (Carbon Tax Repeal) Bill 2013 [No. 2] and the True-up Shortfall Levy (Excise) (Carbon Tax Repeal) Bill 2013 [No. 2], deal with taxation and levy issues in relation to ending assistance to emissions intensive companies that are liable for a carbon price.

Stakeholder and non-government party views

• Stakeholder views are mixed. Industry and business tend to support the repeal in principle but some groups have been concerned over uncertainty surrounding the passage of the repeal. This is partly because no replacement policy has been finalised and the passage of the legislation through the Parliament has been uncertain. Environmental groups generally do not support the repeal legislation.

• The Opposition and the Greens oppose the Bills. The Palmer United Party is expected to support the Bills, conditional on stronger provisions to ensure that energy businesses pass on cost savings associated with the repeal of the carbon price in full.

About the carbon price mechanism

• The carbon price mechanism (CPM) is a cap-and-trade emissions trading scheme that began with a three-year fixed price. This fixed price phase led to the scheme being referred to as a ‘carbon tax’. This phase ends in 2015 when the CPM transitions to a full emissions trading scheme, with links to other carbon markets.

Basis for repeal

• The Government has said that the 2013 election gave it a mandate to repeal the CPM, which it says has increased costs to business and households, has not reduced greenhouse gas emissions, and is not commensurate with international action. The repeal is effective from 1 July 2014.

Implications of the repeal

• Removing the CPM before a replacement emissions safeguards mechanism has been finalised creates uncertainty for business and investors, and potentially jeopardises Australia’s ability to meet nationally agreed emissions reduction targets.

• Although there was some element of electricity and other price increases with the establishment of the CPM, it is unclear to what extent prices will drop after the repeal. The ACCC will need to accurately and credibly monitor prices to manage this issue.

• The repeal may slow the deployment of renewable energy; firstly because funding to the ARENA is cut; and secondly because the carbon price increased the attractiveness of renewable energy relative to fossil fuels.

• The Bills will not be passed before 1 July 2014, but the repeal would apply retrospectively to that date. Depending on the timing of the passage of the Bills through the Parliament, any delay to the repeal may result in extra costs to the Budget.

Developments since the last Digest

Since the time of writing of the Bills Digest on the previous package of Bills, there have been several developments related to the repeal of the carbon pricing mechanism.

Senate Standing Committee on Environment and Communications – repeal legislation inquiry

The 11 Bills of the previous carbon tax repeal package were referred to the Senate Standing Committee on Environment and Communications, which reported on 2 December 2013. The Committee’s report raised a number of issues in respect of the repeal of the carbon price:

• many businesses submitted that the CPM had a serious impact on their input costs and lowered consumer demand80

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• several groups made submissions to the committee that the CPM lowered Australia’s global economic competitiveness, in light of lower levels of carbon pricing in other countries.\(^81\)

• compliance issues would mean that some businesses would find it difficult to make a rapid transition from a trading environment with carbon pricing to one without, and that any price reductions as a result of the repeal of the CPM would take some time to filter through to consumers\(^82\) and

• some groups were concerned about the powers given in the Bills to the Australian Competition and Consumer Commission to monitor prices in the transition period after the repeal, suggesting that they could interfere with otherwise efficient markets. Others noted that outside of the energy sector, the majority of liable entities had not been able to pass on carbon costs to consumers, which would mean that the repeal would not result in lower prices for customers of these entities.\(^83\)

The main Committee report was strongly supportive of the move to repeal the CPM. The dissenting report by Australian Labor Party senators was critical of the Government’s new policy, arguing that a price on carbon was the most effective way of reducing emissions; that uncertainty surrounding the Government’s policy was harmful to investment in low-carbon technologies; and that the Direct Action Plan was not capable of meeting Australia’s emissions reduction commitments, and the policy removed the ability for Australia to take advantage of low-cost international abatement.\(^84\) The Australian Greens also wrote a brief dissenting report along similar lines to the Labor senators’ report, opposing the Bills and the new Direct Action policy.\(^85\) Senator Nick Xenophon added comments largely agreeing with the majority report, but called for stronger evidence and analysis of any new replacement policy and suggested the Government consider the emissions-intensity targets based scheme modelled by Frontier Economics in 2009, which was commissioned by Senator Xenophon and then Opposition Leader Malcolm Turnbull.\(^86\)

**Senate Standing Committee on Environment and Communications – Direct Action Plan references inquiry**

On 10 December 2013, the Senate referred the Government’s Direct Action Plan to the Senate Environment and Communications References Committee, which reported on 26 March 2014. Key themes raised in the Committee’s report in relation to the repeal of the CPM include:

• the Committee and a number of submitters argued that the removal of the national greenhouse gas emissions cap associated with the CPM weakens the ability of the Government to control Australia’s overall emissions and its progress towards the Kyoto target\(^87\)

• some submitters were of the opinion that repealing the CPM undermines Australia’s international reputation, and lowers confidence for investment decisions by the private sector\(^88\) and

• several submitters argued that addressing climate change requires long-term investment, which is impossible in an environment where policies are frequently changed.\(^89\)

The Committee was also strongly critical of moves to abolish the Climate Change Authority, which it said played an important role in providing independent and transparent expert advice on Australia’s climate change policies. It was also critical of the proposed abolition of the Clean Energy Finance Corporation, which it argued was based ‘purely on ideology’.\(^90\) The Committee was also skeptical of the ability of the Direct Action Plan to achieve

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81. Ibid., pp. 20–22.
82. Ibid., pp. 23–26.
83. Ibid., pp. 27–29.
88. Ibid., pp. 52–53.
89. Ibid., pp. 46–50.
90. Ibid., p. 67.
Australia’s emissions reduction targets and argued that it was an inadequate replacement for the CPM, but it should be noted that the Committee’s inquiry was completed before the Emissions Reduction Fund white paper was released in April 2014. Government senators on the Committee issued a dissenting report, which argued that the CPM is not effective at reducing Australia’s emissions and that the CPM had had a significant and detrimental financial impact on households and businesses. The Government senators argued that Australia’s price on carbon is the highest compared to a number of other carbon pricing instruments, with the broadest collection base.

The Australian Greens issued additional comments to the report, which largely agree with the majority report.

**Revised scorecard**

The Bills Digest for the original carbon tax repeal package presented a ‘scorecard’ that summarised selected economic and environmental outcomes that have been used to support arguments for or against the retention, modification or abolition of the CPM. This scorecard has been updated to reflect the availability of more recent information for the same indicators (Figure 3). In all cases, the CPM is only one contributing factor to these outcomes.

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91. Ibid., pp. 98–99.
94. Ibid., pp. 146–148.
Figure 3  Scorecard: selected economic and environmental indicators influenced by the carbon price mechanism

**Consumer prices—electricity**
Increase in overall consumer price index (CPI) to March 2014 for electricity by 24% compared to June 2012 in nominal terms.

**Manufacturing costs—electricity**
Increase in manufacturing producer price index to March 2014 for electricity by 22% compared to June 2012 in nominal terms.

**Estimated CPM liability**
Net carbon liability for 2013–14 at $3.5 billion is lower than 2013–14 at $4.1 billion, primarily due to the larger volume of free permits issued in relation to 2013–14 (the first year that free permits were issued to eligible electricity generators).
**Employment in selected emissions intensive trade-exposed industries**

Employment in the primary metal and metal product manufacturing (which includes aluminium smelting) is 3% lower in May 2014 compared to May 2012. Employment over the same period in the fabricated metal product manufacturing industry (which covers iron and steel forging) is 13% higher.

**Emissions**

Emissions in December 2014 declined by 0.8% compared to June 2012.

**Emissions intensity of electricity generation**

Emissions intensity of electricity generation in the National Electricity Market (NEM) fell by 4% in 2012–13 compared to the previous year but then largely reversed this decline in 2013–14.

Sources: multiple.96

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Changes in retail electricity price regulation and regulated electricity prices for 2014–15

With electricity price deregulated in Victoria and South Australia, competitive pressure in the retail market and the threat of intervention by the ACCC will be the primary drivers of price reductions in these states. This will also now be the case in NSW, where the Government announced in April 2014 that it would remove electricity price regulation from 1 July 2014. 97

In other states, most regulators have already made determinations about regulated household electricity prices for 2014–15, and in some cases have presented a regulated price outcome that includes, or excludes, a repeal of the CPM arrangements (Table 3).

Table 3  Retail electricity price regulatory arrangements and impact of carbon on price increases granted in relation to 2014–15, by jurisdiction

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Regulator</th>
<th>Average price increase from regulator’s decision on electricity prices 2014–15 with and without carbon liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Queensland</td>
<td>Queensland Competition Authority</td>
<td>Annual price increase from previous year of 5.1% ($73) without carbon compared to price increase of 13.6% ($192) with carbon</td>
</tr>
<tr>
<td>Western Australia</td>
<td>Nil—Set by government</td>
<td>Household electricity prices to rise 4.5% from 1 July 2014. No information available about prices in the absence of carbon liability.</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Office of the Tasmanian Economic Regulator</td>
<td>Annual average price decrease 7.8% ($80-$200 depending on relevant tariff and consumption level) due primarily to assumed absence of carbon liability.</td>
</tr>
<tr>
<td>ACT</td>
<td>Independent Competition and Regulatory Commission</td>
<td>Annual average price decrease of 7.3% ($143) without carbon liability compared to annual average increase of 4.3% ($85) with carbon liability.</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Nil—Set by government</td>
<td>Average electricity price increase of 5% applied from 1 January 2014. Northern Territory Government Minister reported as saying that prices will fall by this amount if the carbon liability is removed.</td>
</tr>
</tbody>
</table>

Sources: multiple. 98


Equivalent carbon price package

This section provides an overview of, and developments to, the Bills that remove the effective carbon price from aviation fuel and synthetic greenhouse gases (SGGs). Readers are referred to the previous Bills Digest for further information.99

Equivalent carbon price arrangements apply to aviation fuels and SGGs to extend the CPM beyond those businesses liable to purchase and surrender emissions permits under facility-based emissions thresholds. Instead of surrendering emissions permits, an additional component is added to existing duties or levies that reflect the emissions created through the combustion of aviation fuel or use of the SGG and the applicable carbon price.

Entities subject to the equivalent carbon price arrangements for certain liquid and gaseous fuels and aviation fuels are, from 1 July 2013, to not pay the carbon equivalent price but directly manage carbon liabilities under ‘opt in’ arrangements and surrender the required emissions permits.100

The impact of the equivalent carbon price on a per unit basis can be calculated by multiplying the emissions associated with the use of a fuel or gas by the relevant carbon price for the respective year. For the fixed price period of the CPM (2012–13, 2013–14 and 2014–15) this is relatively straightforward as the prices are known. From the 2015–16 financial year however, the equivalent carbon price (referred to as the ‘per–tonne carbon price equivalent’) is based on average auction prices and the price of international emissions units.101

The five Bills repealing equivalent carbon arrangements from aviation fuels and SGGs are:

• the Customs Tariff Amendment (Carbon Tax Repeal) Bill 2013 [No. 2] amends the Customs Tariff Act 1995 to remove the equivalent carbon price component from the duty paid on aviation fuels
• the Excise Tariff Amendment (Carbon Tax Repeal) Bill 2013 [No. 2] amends the Excise Tariff Act 1921 to remove the equivalent carbon price component from the duty paid on aviation fuels
• the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Carbon Tax Repeal) Bill 2013 [No. 2] and the Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Carbon Tax Repeal) Bill 2013 [No. 2] amend the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995 and Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995 respectively to remove the application of an equivalent carbon price on imported or domestically produced synthetic greenhouse gases (SGGs) and
• the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) (Transitional Provisions) Bill 2013 [No. 2] establishes a mechanism for the exemption from the equivalent carbon price for the import of bulk SGGs between 1 April and 30 June 2014 if certain conditions are met.

In addition to these Bills, the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 [No. 2] (the ‘Main Repeal Bill’) includes provisions that repeal the application of an equivalent carbon price to liquid and gaseous fuels used for certain purposes, through an increase in the applicable fuel tax credit (FTC) for the user of the fuel.

Developments since the last Digest

Since the time of writing the original Bills Digest for these Bills, there has been further debate about the impact of the carbon price on aviation costs.

The major Australian airlines attempted to pass on the additional costs to customers through the implementation of an additional charge based on the distance flown, between $1.50 and $7.25 depending on the carrier and route flown.102

In the first year of the CPM, the additional cost of aviation fuel due to the equivalent carbon price for Qantas and Jetstar was reported to be $106 million.103 Virgin Australia noted that ‘[t]he Group was also impacted by the

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100. Division 7 of Part 3 of the Clean Energy Act 2011 established the basis for regulations to be made for an ‘opt-in scheme’.
carbon tax during the 2013 financial year; with a $47.9 million cost which we were unable to recover due to strong competition in the market’.  

During debate on the Qantas’ financial performance and possible government support or amendments to the Qantas Sale Act 1992, Qantas noted that it had paid around $59 million for the first half of 2013–14 through the equivalent price arrangements.  

Qantas claimed that ‘the price on carbon is a cost to our business that we have not been able to recover through fare increases, because of the intensely competitive market we operate in’.  

Both Qantas and Virgin Australia appear to have utilised the opt-in arrangements to manage their carbon liability for 2013–14. As at 27 June 2014, Qantas had surrendered permits with a value of $85.5 million and Virgin had surrendered permits with a value of $40.9 million in relation to 2013–14 to partly satisfy liabilities for this financial year.  

Data from the Bureau of Infrastructure, Transport and Regional Economics tends to confirm that competitive pressures in the airline industry have limited the capacity for airlines to effectively pass on the carbon costs, with the level of fares generally unchanged, although displaying some change from month to month, from 1 July 2012 (Figure 3).

**Figure 3** Real change in domestic airfares, June 2007 to June 2014

![Real change in domestic airfares](image)


### Climate Change Authority (Abolition) Bill 2013 [No. 2]

This section provides an overview of, and developments to, the Climate Change Authority (Abolition) Bill 2013 [No. 2] since the time of writing the Digest on the previous Bill. For an in-depth discussion of the provisions of and issues surrounding the Bill, readers are directed to the original Bills Digest. Key points from that Digest are summarised below.

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106. Ibid.


108. Clean Energy Regulator (CER), ‘LEPID for the 2013-14 financial year’, Spreadsheet, CER website, accessed 30 June 2014. Both Qantas and Virgin surrendered permits created under the carbon farming initiative which may have been purchased at a discount to the fixed $24.15 price that applies for 2013–14.

What the Bill does

The Bill abolishes the Climate Change Authority (the Authority), and transfers to the Minister the responsibility for ensuring that all of the Authority’s periodic reviews are carried out. These reviews cover:

- the Carbon Farming Initiative (CFI): a scheme for farmers and landowners to voluntarily reduce greenhouse gas emissions and be rewarded with carbon credits
- the National Greenhouse and Energy Reporting Scheme (NGERS): a framework for monitoring and reporting on companies’ greenhouse gas emissions and energy use and
- the Renewable Energy Target (RET) scheme: a market mechanism that puts a requirement on electricity retailers to surrender annually a certain number of Renewable Energy Certificates (RECs), where each REC represents one megawatt-hour of electricity generated from renewable sources.

The Bill also makes some changes to the scope and timing of these reviews.

Why the Bill was introduced

The Government considers that the Authority exists mainly to service the CPM. That being the case there is no value in retaining the Authority once the CPM has been repealed.

What the issues are

The Authority provides non-partisan climate policy advice based on the science. Its removal, and the transferral of its review function to the direction of the Minister, may affect the perception of transparency in the design of climate policy mechanisms.

The Bill removes any mention that reviews of the CFI, NGERS and RET may make recommendations to the Minister. This potentially dilutes the effect of those reviews.

The Bill alters the timing of two of those reviews being:

- the RET review, which was to become quadrennial, is to be biennial. The renewable energy industry claims that this creates investment uncertainty for the sector and
- the first CFI review is delayed by two years to 2016. This removes the opportunity to assess the success of the scheme, which is to form a major component of the Government’s proposed scheme for replacing the CPM.

Developments since the last Digest

Since the previous Digest on the Climate Change Authority (Abolition) Bill 2013 was written, the principal development has been the announcement that PUP will not support the abolition of the Climate Change Authority.110 This means that the Bill is unlikely to pass the Senate.

As explained in the previous Digest on this measure, although the Government considers the Authority unnecessary in the absence of a CPM, there had been some support in the community for the retention of the Authority as an ‘independent umpire’ on climate change policy.111 However, in the absence of the CPM, the ongoing functions of the Authority would need some consideration.

Functions of the Climate Change Authority in the absence of the CPM

The functions of the Climate Change Authority are provided for in section 11 of the Climate Change Authority Act 2011:

The Authority has the following functions:

(a) to conduct reviews under:

(i) Part 22 of the Clean Energy Act 2011; and

110. C Palmer, Al Gore in discussions with Clive Palmer, op. cit.
(ii) section 306 of the 
Carbon Credits (Carbon Farming Initiative) Act 2011; and

(iii) sections 76A and 76B of the 
National Greenhouse and Energy Reporting Act 2007; and

(iv) section 162 of the 
Renewable Energy (Electricity) Act 2000; and

(v) Part 3 of this Act;

(b) if requested to do so by the Climate Change Minister, to assist the Climate Change Minister in preparing the
Commonwealth Government’s response to recommendations set out in a report of such a review;

(c) to conduct research about matters relating to climate change;

(d) to conduct research for purposes in connection with the performance of any of the Authority’s functions;

(e) such other functions as are conferred on the Authority by this Act;

(f) such functions as are conferred on the Authority by any other law of the Commonwealth;

(g) to do anything incidental to or conducive to the performance of any of the above functions.\(^{112}\)

Part 22 of the \textit{Clean Energy Act 2011} requires the Authority to make periodic reviews of matters related entirely
to the CPM (such as the setting of greenhouse gas emissions caps), but it also directs the Authority to review
Australia’s progress towards its climate change targets.\(^{113}\) It also requires the reports of these reviews to be
tabled in the Parliament.\(^{114}\)

Although the Palmer United Party has indicated that it will not support the abolition of the Authority, PUP will
still support the repeal of the CPM, which will entail the repeal of the \textit{Clean Energy Act 2011}.\(^{115}\) As this Act
contains provisions that relate to the Authority regularly providing information to the Parliament about climate
change policies, the \textit{Climate Change Authority Act 2011} will need to be amended to provide for those functions
to continue in the absence of the \textit{Clean Energy Act 2011}. Similarly, if the Authority is to be the body that
determines when the conditions for the proposed Palmer ETS commencement are satisfied, this function must
also be added to the \textit{Climate Change Authority Act 2011} (or another piece of legislation).

However, although PUP has indicated that it will vote against the abolition of the Authority, it is not clear how
effective the Authority will be in 2014–15. The Chair of the Authority, Mr Bernie Fraser, commented at the
Senate Budget Estimates hearing in May 2014, that the expertise of the Authority was draining away as staff left
due to the uncertainty about the Authority’s future:

\begin{quote}
In a sense, I would add, the damage has already been done as far as the authority is concerned. We started off with
a very competent professional team of 36 people. We are now down to 20 and that is adequate to enable us to
complete the projects that we have got in mind. But nobody, understandably, wants to hang around under such a
cloud that the authority is under at the present time. If by some perchance the legislation were not to go through,
there would be a major question about the sustainability of the authority in terms of its resources. I would just add
that it is a great pity, because this team assembled under Anthea Harris—she is much too modest to suggest this—
was a great team but it is fading away.\(^{116}\)
\end{quote}

Similarly, a difficulty would remain about the Authority’s ongoing funding. The Authority’s enabling legislation
does not provide for a standing appropriation for the Authority, and the Authority did not receive an
appropriation in the 2014–15 Budget (as the Government intended for the Authority to be abolished by 1 July
2014).\(^{117}\) This means that should the Authority survive, it will not have any funding for the 2014–15 year, which

\begin{footnotesize}
\begin{enumerate}
\item[112.] \textit{Climate Change Authority Act 2011}, section 11, accessed 28 June 2014.
\item[115.] Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 [No. 2], Schedule 1, \textit{item 1}.
\end{enumerate}
\end{footnotesize}
would presumably severely constrain its ability to carry out any tasks delegated to it by legislation. The Government has not yet indicated if it will provide funding to the Authority in the event that it is not abolished.

Independence of the Climate Change Authority

A theme that has been frequently raised in the debate around abolition of the Climate Change Authority is the potential loss of an ‘independent umpire’ on climate policy, as the Bill will move responsibility for the provision of information about climate change to the Minister for the Environment and his department. On 30 June 2014, it was reported that the Government has been accused of ‘watering down’ references to the impacts of climate change in extreme weather events, in advice provided on the Government’s climate change website. This website is now maintained by the Department of the Environment.

Clean Energy Finance Corporation (Abolition) Bill 2014

This section provides an overview of, and developments to, the proposal to abolish the Clean Energy Finance Corporation (CEFC) since the time of writing the original Bills Digest. For an in depth discussion of the provisions of and issues surrounding the Bill, readers are directed to the original Bills Digest. Key points from that Digest are summarised below.

What the Bill does

The Bill abolishes the Clean Energy Finance Corporation, a Commonwealth company that provides co-investment finance at concessional rates to developers of renewable energy and low-emissions technology.

The Bill transfers the existing assets and liabilities of the CEFC to the Commonwealth, and makes other transitional arrangements for the ongoing administration of existing investment agreements executed by the CEFC.

Why the Bill was introduced

The Government considers that the CEFC is unnecessary and duplicates other incentives for investment in renewable energy, and is opposed to the Government borrowing money to then re-lend.

What the issues are

Although the CEFC extends the borrowings of the Commonwealth, it invests those funds and returns a profit to the Commonwealth. The financial impact of abolishing the CEFC is disputed and its abolition could result in a net cost to taxpayers rather than a saving.

The CEFC has been relatively successful so far at leveraging private investment and some groups argue that the projects co-funded by the CEFC would otherwise be too risky for private sector investment.

Developments since the last Digest

Since the original Bills Digest on the abolition of the CEFC, the principal development has been that the Palmer United Party has announced that it will not support the abolition of the CEFC. This means that the CEFC is unlikely to be abolished, as PUP, the Greens, Labor, Senator John Madigan and Senator Nick Xenophon all oppose its abolition.

Role of the CEFC in the absence of a carbon price

The CEFC currently co-finances investments in renewable energy, energy efficiency and low-emissions technologies. If the CPM is repealed, it will remove a significant driver for the implementation of low-emissions technologies, which could potentially undermine the CEFC’s potential markets. Liable entities will no longer have a significant incentive to invest in reducing their greenhouse gas emissions and the business case for implementing low-emissions technologies may no longer be positive.

However, although the abolition of the CPM reduces a direct incentive for emitters to invest in lower-emissions technology, it is probable that there will still be a role for the CEFC in financing renewable energy and low-emissions technology. For example, one activity currently undertaken by the CEFC is the financing of Environmental Upgrade Agreements, where the owners of commercial buildings use a combination of CEFC and private bank finance to fund energy efficiency capital upgrades. Repayments on these loans are then collected by the local Council in addition to normal municipal rates, and the loan liability stays attached to the building, rather than the building owner. This means that if the building is sold, the loan continues to be repaid by the new owners, who benefit from the environmental upgrade undertaken by the previous owner.123

This is an example of an activity that might continue in the absence of a CPM. Although the carbon price component of electricity and gas will be eliminated, it is possible that electricity and gas prices will continue to rise for reasons unrelated to the CPM. These factors include the speculated move towards international gas parity on the Eastern gas market and increasing electricity network charges.

Similarly, as the Palmer United Party has decided to oppose any change to the Renewable Energy Target before the 2016 election, there will continue to be a mandated, increasing demand for renewable energy.124 The CEFC may continue to provide finance to new renewable energy development, as the Clean Energy Finance Corporation Act 2012 requires that the CEFC invests at least half of its funds in renewable energy projects by 1 July 2018.125

There is also the possibility that the CEFC could finance projects which then bid into the Government’s proposed Emissions Reduction Fund. The ERF will purchase greenhouse gas emissions abatement from eligible projects, but will only do so once the abatement has been generated and quantified.126 This means that the project proponent assumes all commercial risk until the project has generated quantified abatement; the financing of such projects could be a difficult proposition. There have been some reports that businesses and banks may be disinclined to provide finance to projects bidding into the ERF under normal circumstances;127 the ability of the CEFC to provide finance at concessional rates may increase the viability of some projects.

However, the white paper for the ERF makes clear that the Government requires that projects that receive payments from the ERF must be additional – that is, they should not be likely to happen under business-as-usual conditions. The white paper also suggests that the highest priority for ERF projects will be those that are not encouraged by other Government mechanisms.128 If the CEFC is not abolished, the Government will need to clarify whether it considers the intervention of the CEFC to be permissible in ERF projects.

### Income tax rates package

The purpose of the Clean Energy (Income Tax Rates and Other Amendments) Bill 2013 [No. 2] is to amend the Clean Energy (Income Tax Rates Amendments) Act 2011 and the Clean Energy (Tax Laws Amendments) Act 2011 so that both Acts have their future operative provisions repealed. Both Acts have provisions already in operation and these would not be repealed. The Bill would thus:

- repeal an increase in the nominal tax-free threshold from $18,200 in 2014–15 to $19,400 in 2015–16
- maintain the second personal marginal tax rate at 32.5 per cent rather than increase it to 33 per cent from 2015–16

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• maintain the maximum value of the low income tax offset\footnote{131} (LITO) at $445 rather than change the maximum value of the LITO to $300 from 2015–16 and

• maintain the threshold below which a person may receive LITO at a taxable income of $66,667 and the withdrawal rate at 1.5 per cent, rather than the income threshold increasing to $67,000 and the withdrawal rate falling to 1 per cent from 2015–16.

Readers are referred to the previous Bills Digest\footnote{132} for further information about the Bill.

These legislated changes effectively provide for an annual tax cut of $228 for taxpayers with a taxable income of between $22,000 and $37,000, with the amount of tax cut declining after this income threshold to $13 for taxpayers with a taxable income of more than $80,000.\footnote{133}

The policy intent in implementing these tax changes in the original carbon price package of Bills in 2011—which were enacted by the \textit{Clean Energy (Income Tax Rates and Other Amendments) Act 2011} and \textit{Clean Energy (Tax Laws Amendments) Act 2011}—was to provide compensation to households in the transition from a fixed carbon price to an emissions trading scheme from 1 July 2015. This was because, as originally envisaged, the price from 1 July 2015 was expected to be higher than prices in the fixed price period.

However, the subsequent implementation in 2012 of a one-way link to the European Union emissions trading scheme (EU ETS) and the low (and falling) prices in the EU ETS led to the previous Government proposing to repeal the legislated tax changes. With this change not being implemented before the 2013 election and the proposed repeal of the CPM arrangements, the policy intent in implementing the tax changes is no longer valid.

\textit{Developments since the last Digest}

While the original policy intent for the tax changes may no longer be valid, there nevertheless may be arguments on cost of living grounds to support the retention of these tax changes.

For example, modelling by the National Centre for Social and Economic Modelling (NATSEM)—commissioned by the ALP—found that lower income households generally faced greater falls as a share of their mean disposable incomes than comparable households at higher incomes.\footnote{134} This analysis however included the application of a flexible carbon price from 1 July 2014 in accordance with the ALP’s proposal to bring forward the commencement of the ETS from this date—so that in the complete absence of any carbon liability the impact modelled by NATSEM on households of the 2014–15 budget would be overstated.

Based on the latest available published taxation statistics for the 2011–12 income year, there are around seven million taxpayers with taxable incomes between $20,000 and $80,000, who would benefit from the tax changes implemented from 1 July 2015.\footnote{135}

\textit{Views of selected Senators}

Senators Leyonhjelm (Liberal Democratic Party) and Day (Family First) have been reported as opposing the repeal of the legislated income tax changes.\footnote{136}