



Clean Energy (Unit Issue Charge— Auctions) Act 2011

Act No. 160 of 2011 as amended

This compilation was prepared on 18 December 2012
taking into account amendments up to Act No. 203 of 2012

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Parliamentary Counsel, Canberra

Contents

1	Short title [<i>see</i> Note 1].....	1
2	Commencement.....	1
3	Definitions.....	1
4	Crown to be bound.....	2
5	Extension to external Territories.....	2
6	Extension to exclusive economic zone and continental shelf.....	2
7	Extension to Joint Petroleum Development Area.....	2
8	Imposition of charge.....	2
9	Act does not impose a tax on property of a State.....	3

Notes

4

An Act to impose charges on the issue of carbon units issued as a result of an auction under the *Clean Energy Act 2011*, so far as those charges are neither duties of customs nor duties of excise

1 Short title [see Note 1]

This Act may be cited as the *Clean Energy (Unit Issue Charge—Auctions) Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	4 December 2011
2. Sections 3 to 10	At the same time as section 3 of the <i>Clean Energy Act 2011</i> commences.	2 April 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Definitions

In this Act:

auction has the same meaning as in the *Clean Energy Act 2011*.

carbon unit has the same meaning as in the *Clean Energy Act 2011*.

issue, in relation to a carbon unit, has the same meaning as in the *Clean Energy Act 2011*.

Joint Petroleum Development Area has the same meaning as in the *Petroleum (Timor Sea Treaty) Act 2003*.

person has the same meaning as in the *Clean Energy Act 2011*.

Regulator means the Clean Energy Regulator.

4 Crown to be bound

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island. However, it does not bind the Crown in right of the Commonwealth.

5 Extension to external Territories

This Act extends to every external Territory.

6 Extension to exclusive economic zone and continental shelf

This Act extends to Australia's exclusive economic zone and continental shelf.

7 Extension to Joint Petroleum Development Area

This Act extends to the Joint Petroleum Development Area.

8 Imposition of charge

- (1) If:
 - (a) a carbon unit is issued to a person; and
 - (b) the unit is issued as the result of an auction;charge is imposed on the issue of the unit.
- (2) Charge imposed by subsection (1) is payable by the person.
- (3) The amount of charge imposed by subsection (1) on the issue of a carbon unit is the amount equal to the amount the person indicated

or declared, in the course of the auction, that the person would be willing to pay by way of charge for the issue of the unit, so long as, in a case where there is a reserve charge amount in relation to the auction (see subsection (4A)), the amount the person indicated or declared, in the course of the auction, that the person would be willing to pay by way of charge for the issue of the unit is not less than that reserve charge amount.

- (4) Subsection (3) does not apply to an amount the person indicated or declared, in the course of the auction, that the person would be willing to pay by way of charge for the issue of the unit, unless the amount was accepted by the Regulator in the course of the auction.
- (4A) The Minister may, by legislative instrument, determine that, for the purposes of subsection (3), the *reserve charge amount* in relation to a specified auction is the amount ascertained in accordance with the determination.
- (5) Subsection (1) imposes charge only so far as that charge is:
 - (a) taxation within the meaning of section 55 of the Constitution; and
 - (b) neither a duty of customs nor a duty of excise within the meaning of that section.

9 Act does not impose a tax on property of a State

- (1) This Act has no effect to the extent (if any) to which it imposes a tax on property of any kind belonging to a State.
- (2) In this section, *property of any kind belonging to a State* has the same meaning as in section 114 of the Constitution.

Table of Acts**Notes to the *Clean Energy (Unit Issue Charge—Auctions) Act 2011*****Note 1**

The *Clean Energy (Unit Issue Charge—Auctions) Act 2011* as shown in this compilation comprises Act No. 160, 2011 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Clean Energy (Unit Issue Charge—Auctions) Act 2011</i>	160, 2011	4 Dec 2011	Ss. 3–10: 2 Apr 2012 (see s. 2(1)) Remainder: Royal Assent	
<i>Clean Energy (Unit Issue Charge—Auctions) Amendment Act 2012</i>	203, 2012	13 Dec 2012	Schedule 1: 14 Dec 2012 (see s. 2(1)) Remainder: Royal Assent	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3	am. No. 203, 2012
S. 8	am. No. 203, 2012
S. 10	rep. No. 203, 2012
