



Australian National Registry of Emissions Units Regulations 2011¹

Select Legislative Instrument 2011 No. 266

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Australian National Registry of Emissions Units Act 2011*.

Dated 7 December 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

GREG COMBET
Minister for Climate Change and Energy Efficiency

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Part 1 Preliminary

1 Name of Regulations

These Regulations are the *Australian National Registry of Emissions Units Regulations 2011*.

2 Commencement

These Regulations commence on the commencement of section 3 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

3 Definitions

In these Regulations:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

ACN has the meaning given by section 9 of the *Corporations Act 2001*.

Act means the *Australian National Registry of Emissions Units Act 2011*.

approved form means a form approved, in writing, by the Administrator for a provision of these Regulations.

ARBN has the meaning given by section 9 of the *Corporations Act 2001*.

authorised representative means an individual who is nominated under either subregulation 9 (2) or 32 (1) to be an authorised representative for a particular Registry account.

cancellation day — see subregulation 43 (2).

Carbon Farming Act means the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

certified copy means:

- (a) a copy of a document that has been certified as a true copy by a person mentioned in Schedule 2 to the *Statutory Declarations Regulations 1993*; and

Regulation 3

- (b) if a person who is required to provide a document under these Regulations is not in Australia at the time the document must be provided — a copy of a document that has been certified as a true copy by:
- (i) an Australian embassy, Australian High Commission or Australian consulate (other than a consulate headed by an honorary consul); or
 - (ii) a competent authority under the *Hague Convention Abolishing the Requirement for Legalisation for Foreign Public Documents* done at The Hague on 5 October 1961.

Note Information about competent authorities under the Convention can be found on the Hague Conference on Private International Law's website at www.hcch.net.

commitment period reserve — see regulation 4.

documentary proof, in relation to a person's identity, means the documents required for that kind of person under Division 2.2 of Part 2.

entity means a person who is not an individual.

executive officer of a body corporate means:

- (a) a director of the body corporate; or
- (b) the chief executive officer (however described) of the body corporate; or
- (c) the chief financial officer (however described) of the body corporate; or
- (d) the secretary of the body corporate.

foreign person means any of the following:

- (a) an individual who is not ordinarily resident in Australia;
- (b) a body corporate or a corporation sole that:
 - (i) is incorporated outside Australia; or
 - (ii) is an authority of a foreign country;
- (c) a body politic or a local governing body of a foreign country;
- (d) if paragraph (a), (b) or (c) applies to the trustee, or a majority of the trustees, of a trust — that trust.

Regulation 3

GST registration number means the number notified to a person under section 25-5 of the *A New Tax System (Goods and Services Tax) Act 1999*.

international transaction log means the electronic data system administered by the Secretariat of the Climate Change Convention for the purpose of monitoring and tracking transactions in Kyoto units.

ordinarily resident in Australia — see regulation 5.

registered co-operative means a body registered under legislation as a co-operative.

Registry transaction means the transmission by electronic notice of an instruction in relation to a Registry account.

replacement day — see subregulation 43 (2).

Note Other words and expressions used in these Regulations have the meaning given by section 4 of the Act, for example:

- Administrator
- Australian carbon credit unit
- clean development mechanism project
- commitment period
- Commonwealth Registry account
- hold (in terms of holding an Australian carbon credit unit)
- Kyoto unit
- long-term certified emission reduction
- long-term certified emission reduction replacement (non-certification) account
- long-term certified emission reduction replacement (storage reversal) account
- mandatory cancellation account
- prescribed international unit
- Registry account
- temporary certified emission reduction
- transfer
- voluntary cancellation account.

Regulation 4

4 Meaning of *commitment period reserve*

For section 4 of the Act, *commitment period reserve* means the minimum level of Kyoto units for a relevant commitment period that must be maintained in the Registry in accordance with paragraphs 6 and 7 of the Annex to Decision 11/CMP.1 of the Meeting of the Kyoto Parties.

5 Meaning of *ordinarily resident in Australia*

An individual is *ordinarily resident in Australia* if, at a particular time:

- (a) one of the following applies to the individual:
 - (i) the individual is in Australia and has permission to remain in Australia indefinitely;
 - (ii) the individual is not in Australia but has a right to re-enter Australia and, on re-entry, to be granted permission to remain in Australia indefinitely;
 - (iii) the individual is in Australia and has a special category visa under section 32 of the *Migration Act 1958*;
 - (iv) the individual is not in Australia, is a New Zealand citizen, holds a New Zealand passport and, on re-entry to Australia, would have the right to be granted a special category visa under section 32 of the *Migration Act 1958*; and
- (b) the individual was in Australia for 200 or more days in the 12 months immediately preceding that time.

6 Approved forms

The Administrator may approve a form for a provision of these Regulations.

7 Electronic notices transmitted to Administrator

- (1) For subsection 5 (2) of the Act, an electronic notice must be transmitted using the Administrator's website.

Regulation 7

- (2) The electronic notice must be transmitted by:
- (a) an individual who is a registered holder of the Registry account to which the notice relates; or
 - (b) an authorised representative of the registered holder who has been given access to the Registry account under subregulation 31 (2).

Regulation 8

Part 2 Australian National Registry of Emissions Units

Division 2.1 Opening Registry accounts

8 General

The regulations in this Division are made for sections 10 and 11 of the Act.

9 Requests to open Registry account

- (1) A person may request the Administrator to open a Registry account in the person's name.
- (2) The person who makes the request:
 - (a) if the person is not an individual — must nominate an authorised representative; or
 - (b) if the person is an individual — may nominate an authorised representative.
- (3) The request must be in the approved form.

Information

- (4) The request must include the information set out in the table, as relevant to the person making the request.

Item Information

- 1 The person's full name, address and contact details
- 2 The person's status as one of the following:
 - (a) an individual, including an individual who is a sole trader;
 - (b) a body corporate;
 - (c) a corporation sole;
 - (d) a body politic;
 - (e) a local governing body;
 - (f) a trust

Regulation 9

Item	Information
3	The person's ABN, ACN, ARBN, GST registration number or other unique number
4	The person's business name and, if different, trading name
5	The address of the person's principal place of business
6	For the person who is an individual, including an individual who is a sole trader: <ul style="list-style-type: none">(a) the individual's date of birth and residential address; and(b) if the individual is known by any other name — the other name; and(c) the individual's gender; and(d) if the individual is a sole trader — each jurisdiction in which the individual operates as a sole trader
7	For the person that is a body corporate: <ul style="list-style-type: none">(a) the full name, and the date of birth, of each executive officer; and(b) a description of the form in which the body has been incorporated; and(c) each jurisdiction in which the body operates
8	For a body corporate that is a foreign person — the name of any Australian agent through which the body conducts business
9	For the person that is a trust: <ul style="list-style-type: none">(a) the full name and the address of each trustee; and(b) a description of the type of trust; and(c) the jurisdictions in which the trust operates; and(d) for each trustee who is an individual — the information required in item 6; and(e) for each trustee that is a body corporate — the information required in item 7
10	The full name, date of birth and address of a person who is an individual constituting a corporation sole
11	If there is no registered address or principal place of business for an incorporated association or an incorporated co-operative, the full name and address of that body's: <ul style="list-style-type: none">(a) public officer; or(b) if there is no public officer — secretary; or(c) if the body does not have an officer mentioned in paragraph (a) or (b) — president or treasurer

Regulation 10

Information about authorised representatives

- (5) The request must also include the information required in items 1 and 6 of the table for any authorised representative nominated by the person under subregulation (2).

10 Additional information — beneficial ownership

- (1) A request to open a Registry account that is made by a person who is a proprietary or private company must include the name and address of any beneficial owner.
- (2) However, subregulation (1) does not apply to a proprietary company if the company is:
- (a) a publicly listed company in Australia, or a wholly owned subsidiary of such a company; or
 - (b) licensed and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a company.
- (3) If the person is a trust, the request must include:
- (a) the full name, and the date of birth, of each beneficiary of the trust; or
 - (b) if the terms of the trust identify the beneficiaries of the trust by reference to membership of a class — details about the class.
- (4) However, subregulation (2) does not apply to a trust if the trust is:
- (a) a government superannuation fund established by legislation; or
 - (b) registered and subject to the regulatory oversight of a Commonwealth statutory regulator in relation to its activities as a trust.
- (5) For this regulation:
- beneficial owner*, in relation to a company, means an individual who owns, through one or more share holdings, over 25% of the issued capital in the company.

11 Further information

- (1) The Administrator may, in writing, ask a person who has made a request to open a Registry account to provide further information in relation to the request within a specified time.
- (2) If the person does not comply with the Administrator's request, the Administrator may, in writing, tell the person that:
 - (a) the request to open the account has been refused; and
 - (b) no action, or no further action, will be taken in relation to the request.

Note Section 88 of the Act provides for the Administrator's obligations in relation to requiring further information.

12 Verification of information

The Administrator may, in writing, ask a person who makes a request to open a Registry account to verify, by statutory declaration, any statement made in the request.

13 Opening of Registry accounts

- (1) The Administrator may open a Registry account in response to a request to do so.
- (2) The Administrator must open a Registry account only:
 - (a) if the identification procedures in regulation 23 have been followed; and
 - (b) if the Administrator is satisfied of the identity of the person in whose name the account is to be opened; and
 - (c) if the Administrator is satisfied that the person is a fit and proper person having regard to the criteria set out in section 64 of the Carbon Farming Act and any regulations made under that section; and
 - (d) for a person who is an entity — if the Administrator is satisfied that the individual making the request has been authorised by the entity and has sufficient authority to act on its behalf.

Regulation 14

Division 2.2 Identification procedures

Subdivision 2.2.1 Document requirements

14 General

- (1) The regulations in this Division are made for subsections 11 (1) and 27 (1) of the Act.
- (2) If this Division requires a person to provide documentary proof:
 - (a) any document required must be current; and
 - (b) the person must provide a certified copy of the original document.
- (3) In this Division:
request means a request, under regulation 9, to open a Registry account.

15 Proof of identity and authorisation — at time of request

- (1) A person in whose name a Registry account is to be opened must, at the time of making a request under regulation 9, give the Administrator:
 - (a) documentary proof of the person's identity; and
 - (b) if a provision mentioned in subregulation (2) requires documentary proof of the identity of another person associated with the person — documentary proof of the other person's identity; and
 - (c) if the person has nominated one or more individuals under subregulation 9 (2) to be an authorised representative of the person — documentary proof of the identity of each individual the person nominates.
- (2) For paragraph (1) (b), the provisions are:
 - (a) paragraph (d) of item 4 of the table in regulation 21; and
 - (b) item 2 or 3 of the table in regulation 22.

Regulation 17

- (3) If the person is an entity, the person must also give the Administrator documentary evidence that the individual who is making the request:
- (a) is authorised by the entity to make the request; and
 - (b) has sufficient authority to act on its behalf.

16 English translation of documents

- (1) This regulation applies if:
- (a) a person is required to provide a document under this Division; and
 - (b) the document is not written in English.
- (2) The person must provide an English translation of the document that has been prepared and certified as a true copy of the original document by an authorised translation service.
- (3) In this regulation:
- authorised translation service* means a translation service accredited by the National Accreditation Authority for Translators and Interpreters.

17 When documents need not be given under this Division

Entities already identified

- (1) An entity making a request is not required to give to the Administrator under this Division a document identifying the entity if the entity:
- (a) is registered under the *Renewable Energy (Electricity) Act 2000* or is a registered corporation under the *National Greenhouse and Energy Reporting Act 2007*; and
 - (b) has previously submitted the document to the Department.

Regulation 18

Documents already provided under the Carbon Farming Act

- (2) A person making a request is not required to give a document to the Administrator under this Division if:
- (a) at the time of making the request, the person is also applying under subsection 60 (1) of the Carbon Farming Act for recognition as an offsets entity; and
 - (b) the person submits a document under regulations made for paragraph 61 (1) (d) of that Act; and
 - (c) the person is required to give the same document to the Administrator under this Division.

Subdivision 2.2.2 Proof of identity for individuals

18 Individuals

- (1) This regulation applies to:
- (a) an individual in whose name a Registry account is to be opened; and
 - (b) if the Registry account is to be opened in the name of an entity — any individual who has been nominated to be an authorised representative of the entity at the time of the request; and
 - (c) each individual who is nominated by a registered holder under regulation 32 to be an authorised representative for a Registry account; and
 - (d) an individual associated with an entity, if documentary proof of the individual's identity is required under:
 - (i) paragraph (d) of item 4 of the table in regulation 21; or
 - (ii) item 2 or 3 of the table in regulation 22.
- (2) If the individual is an Australian citizen or is ordinarily resident in Australia, the person making the request must give the Administrator 3 documents identifying the individual, of a kind set out in Schedule 1, at least one of which must be a category A document.

Regulation 19

- (3) If the individual is a foreign person, the person making the request must give the Administrator 3 documents identifying the individual, of a kind set out in Schedule 2, at least one of which must be a category A document.
- (4) If the individual has changed his or her name, the person making the request must give the Administrator a document that shows the change of name (in addition to any document mentioned in subregulation (2) or (3)).

Examples of documents

A marriage certificate; a deed poll; a certificate issued by a government authority that recognises the change of name.

19 Aboriginal persons or Torres Strait Islanders

- (1) This regulation applies in relation to an individual who is an Aboriginal person or a Torres Strait Islander who is unable to meet the requirements of regulation 18.
- (2) A person making a request must give the Administrator a reference by an authorised referee that verifies the individual's identity.
- (3) The authorised referee may confirm the individual's identity from any records within the referee's keeping or control.

- (4) In this regulation:

Aboriginal person means a person of the Aboriginal race of Australia.

authorised referee, for an individual, means a person who:

- (a) is not the individual's parent, grandparent, sibling, child or grandchild; and
- (b) has known the individual for at least 12 months; and
- (c) is one of the following:
 - (i) the chairperson, Secretary or chief executive officer of an incorporated indigenous organisation, including a land council, community council or housing organisation;
 - (ii) the individual's employer;
 - (iii) a school principal or a school counsellor;

Regulation 20

- (iv) a minister of religion;
- (v) a medical practitioner;
- (vi) a treating health professional or a manager in an Aboriginal Medical Service;
- (vii) a person who has been an officer in a Department of State in the Commonwealth or a State or Territory for at least 5 years.

Torres Strait Islander means a descendant of an indigenous inhabitant of the Torres Strait Islands.

treating health professional has the meaning given by section 197 of the *Social Security Act 1991*.

Subdivision 2.2.3 Proof of identity for entities

20 Entities

- (1) This Subdivision applies to:
 - (a) an entity in whose name a Registry account is to be opened; and
 - (b) a trustee of a trust that is a body corporate.

21 Identification of entities

A request, from an entity of a kind mentioned in an item of the following table, must be accompanied by the documentation mentioned in the item.

Regulation 21

Item	If the entity is ...	the documents that must accompany a request are ...
1	a body corporate	(a) the certificate of the entity's incorporation (if any); and (b) the certificate of the entity's registration (if any) with the Australian Securities Investment Commission; and (c) if the entity is not registered in Australia — the certificate of the entity's registration (if any) with a registry established under a foreign law; and (d) if there is no certificate of the entity's incorporation — a document with similar effect; and (e) if there is no certificate of the entity's registration — a document with similar effect
2	a body corporate that is an incorporated association or a registered co-operative	(a) a document mentioned in item 1; and (b) other documentary evidence that the entity exists (for example, an annual report or the entity's constitution)
3	a local governing body	(a) a document mentioned in item 1; and (b) documentary evidence that the entity is a local governing body
4	a body corporate that does not have an ABN	(a) a document mentioned in item 1; and (b) if the body corporate is of a kind mentioned in item 2 — the other documents mentioned in item 2; and (c) if the body corporate is of a kind mentioned in item 3 — the documents mentioned in item 3; and

Regulation 22

Item	If the entity is ...	the documents that must accompany a request are ...
		(d) the following documentary evidence of the identity of executive officers: <ul style="list-style-type: none">(i) if the body corporate is a private company, incorporated association or registered co-operative (whether or not a foreign entity):<ul style="list-style-type: none">(A) if that entity has at least 3 executive officers — 3 executive officers; or(B) if that entity has one or 2 executive officers — those officers;(ii) if the body corporate is a foreign company that is a public company — documentary evidence of the identity of an executive officer who is not the same person the entity nominates to be an authorised representative

22 Identification of trusts

If a request relates to an entity that is a trust, the request must be accompanied by the documentation set out in each item of the table.

Item	The documents that must accompany a request are ...
1	(a) if there is a trust deed — the deed, or an extract of the deed that identifies the trustees and beneficiaries (or classes of beneficiary); or (b) if there is no trust deed: <ul style="list-style-type: none">(i) a document with similar effect to a trust deed; or(ii) the certificate of registration as a trust (if any)
2	documentary evidence of the identity of each trustee who is an individual
3	for each trustee that is a body corporate — the documentary evidence mentioned in the table in regulation 21 that is relevant to the kind of body corporate

Subdivision 2.2.4 Administrator must consider evidence of identity etc

23 Administrator to consider evidence of identity etc

Before opening a Registry account

- (1) Before opening a Registry account in the name of a person who makes a request, the Administrator must:
 - (a) review the evidence of identity given to the Administrator under this Division; and
 - (b) review the evidence of an individual's authorisation to submit a request on behalf of an entity.

For an authorised representative

- (2) The Administrator must review the evidence of the identity of an authorised representative that has been given to the Administrator under paragraph 15 (1) (c) and subregulation 32 (2) before giving the authorised representative access to a Registry account under subregulation 31 (2).

Division 2.3 Commonwealth Registry accounts

Subdivision 2.3.1 Designation and opening of Commonwealth Registry accounts

24 Designation of Commonwealth Registry accounts

For section 12 of the Act, the Administrator may designate a Commonwealth Registry account as an account with one of the following names:

- (a) a Commonwealth holding account;
- (b) a Commonwealth origination account;
- (c) an Australian carbon credit unit cancellation account;
- (d) the Commonwealth relinquished units account;
- (e) an Australian carbon credit unit relinquishment account;
- (f) an Australian carbon credit exchange account;

Regulation 25

- (g) the voluntary cancellation account for a particular commitment period;
- (h) the retirement account for a particular commitment period;
- (i) the net source cancellation account for a particular commitment period;
- (j) the non-compliance cancellation account for a particular commitment period;
- (k) the mandatory cancellation account for a particular commitment period;
- (l) the temporary certified emission reduction replacement (expiry) account for a particular commitment period;
- (m) the long term certified emission reduction replacement (expiry) account for a particular commitment period;
- (n) the long term certified emission reduction replacement (storage reversal) account for a particular commitment period;
- (o) the long term certified emission reduction replacement (non-certification) account for a particular commitment period.

25 Opening of Commonwealth Registry accounts

- (1) For section 13 of the Act, the Minister may, in writing, direct the Administrator to:
 - (a) open a Registry account in the name of the Commonwealth; and
 - (b) give the Registry account the designation specified in the direction.
- (2) The Administrator must comply with a direction given under subregulation (1).

Subdivision 2.3.2 Transfer of Kyoto units

26 Kyoto units that cannot be transferred — Commonwealth Registry accounts

- (1) For subsection 14 (1) of the Act, a Kyoto unit to which subregulation (2) applies cannot be transferred.

Regulation 27

- (2) This subregulation applies to a Kyoto unit for which there is an entry in any of the following Commonwealth Registry accounts:
- (a) the retirement account for a particular commitment period;
 - (b) the net source cancellation account for a particular commitment period;
 - (c) the non-compliance cancellation account for a particular commitment period;
 - (d) the voluntary cancellation account for a particular commitment period;
 - (e) the mandatory cancellation account for a particular commitment period;
 - (f) the temporary certified emission reduction replacement (expiry) account for a particular commitment period;
 - (g) the long-term certified emission reduction replacement (expiry) account for a particular commitment period;
 - (h) the long-term certified emission reduction replacement (storage reversal) account for a particular commitment period;
 - (i) the long-term certified emission reduction replacement (non-certification) account for a particular commitment period;
 - (j) a Commonwealth relinquished units account;
 - (k) an Australian carbon credit unit cancellation account.

Note Subsection 14 (2) of the Act provides that regulations made for the purposes of subsection 14 (1) of the Act have effect despite any other provision of that Act or the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Division 2.4 Closing Registry accounts

27 Voluntary closure of Registry accounts

- (1) The Administrator may, for subsection 15 (1) of the Act, close a Registry account kept in the name of a person, if:
- (a) the person, by written notice, requests the Administrator to close the account; and

Regulation 28

- (b) there are no entries for any Australian carbon credit units in the account; and
- (c) there are no entries for any Kyoto units in the account; and
- (d) there are no entries for any prescribed international units in the account.

Compliance with request

- (2) The Administrator must:
 - (a) comply with the request as soon as practicable after receiving it; and
 - (b) notify the person making the request as soon as practicable after the account is closed.
- (3) The Registry must set out a record of each closure under this regulation.

28 Unilateral closure of Registry accounts etc

Application

- (1) For subsection 16 (1) of the Act, this regulation applies if:
 - (a) a person has a Registry account; and
 - (b) the person has contravened, or is contravening, Part 2 of the Act or these Regulations.

Closure of account

- (2) The Administrator may close the Registry account.
- (3) However, the Administrator must not close the Registry account unless, at least 30 days before closing the account, the Administrator gives the person a written notice:
 - (a) stating that the Administrator proposes to close the account; and
 - (b) setting out the effect of subregulations (4), (5), and (6).

Regulation 29

Cancellation or transfer of units

- (4) If, immediately before the Administrator closes the Registry account, there is an entry for an Australian carbon credit unit in the account, the unit is cancelled.
- (5) If, immediately before the Administrator closes the Registry account, there is an entry for a Kyoto unit in the account, the Administrator must transfer the unit to a voluntary cancellation account.
- (6) If, immediately before the Administrator closes the Registry account, there is an entry for a prescribed international unit in the account, the unit is cancelled.
- (7) If:
 - (a) the Administrator has closed the account of a person under subregulation (2); and
 - (b) the person asks the Administrator to open another account in the person's name;the Administrator must refuse to do so.

Note Subsection 16 (7) of the Act provides for records that must be kept in the Registry of cancellations mentioned in subregulations (4) and (6) and the unilateral closure of a Registry account.

Division 2.5 Change in name of account holder

29 Altering the Registry

- (1) For section 18 of the Act, this regulation applies if:
 - (a) a Registry account is kept in the name of a person; and
 - (b) the name of the person has changed; and
 - (c) the person applies to the Administrator to have the new name substituted for the previous name in the Registry in relation to the account.
- (2) The Administrator may make the necessary alterations in the Registry.

Regulation 30

Division 2.6 Miscellaneous

30 Registry requirements

The Regulations in this Division are made for subsections 5 (2) and 27 (1) of the Act.

31 Authorised representatives — access to Registry account

- (1) This regulation applies to an authorised representative:
 - (a) nominated under subregulation (9) (2); or
 - (b) the subject of a request under subregulation 32 (1).
- (2) The Administrator must give the authorised representative access to a Registry account only if:
 - (a) the identification procedures in subregulation 23 (2) have been followed; and
 - (b) the Administrator is satisfied of the identity of the authorised representative.
- (3) If access is provided under subregulation (2), the authorised representative may:
 - (a) view the details of the Registry account; and
 - (b) initiate transactions in relation to the account; and
 - (c) approve transactions in relation to the account.
- (4) If the Administrator is not satisfied of the authorised representative's identity, the Administrator must, as soon as practicable:
 - (a) notify the relevant registered holder that access has not been given under subregulation (2), giving reasons for the refusal; and
 - (b) require the holder to nominate another authorised representative.

Note An authorised representative must be an individual — see the definition of *authorised representative* in regulation 3.

32 Authorised representatives — nomination after registration

Request to add or remove an authorised representative

- (1) A registered holder, or an authorised representative of the holder, may at any time request the Administrator, in the approved form, to remove or add an authorised representative.

Note A nomination for an authorised representative may also be made in a request to open a Registry account under regulation 9.

Identification procedure

- (2) A request to add an authorised representative must be accompanied by documentary proof of the identity of the individual nominated to be an authorised representative.

Note 1 The term *documentary proof* is defined in regulation 3.

Note 2 An authorised representative must be given access by the Administrator to a Registry account before the Administrator will accept electronic notices from the person for the account — see regulation 7.

Contact details

- (3) The registered holder or the holder's authorised representative may apply to the Administrator, in the approved form, to remove, add, or change the contact details of an authorised representative.

33 Requirement to notify the Administrator

- (1) The registered holder must notify the Administrator, in the approved form, of any of the following changes, within 28 business days of the change taking place:
 - (a) a change of the registered holder's name or contact details;
 - (b) a change of the contact details of the registered holder's authorised representative.
- (2) If a registered holder knows that:
 - (a) an Australian carbon credit unit; or
 - (b) a Kyoto unit; or

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- (c) a prescribed international unit;
has been incorrectly transferred to or from the holder's Registry account, the holder must notify the Administrator as soon as practicable of the mistake.

Note Civil penalties, including those for ancillary contraventions, apply to a failure to comply with the requirements of this regulation — see section 27 of the Act.

34 Requirements about dealings with the Registry

- (1) A registered holder must not gain, or try to gain, unauthorised access to the Registry, the Registry's server, or any other server, computer or database related to the Registry.
- (2) A registered holder:
- (a) must maintain the security of user names and passwords issued to the holder and to its authorised representatives (if any) for the purpose of accessing the Registry; and
 - (b) must not allow any other person to gain, or try to gain, unauthorised access to the Registry, the Registry's server, or any other server, computer or database related to the Registry; and
 - (c) must ensure that its authorised representative does not allow another person to gain unauthorised access to the Registry, as described in paragraph (b).
- (3) A registered holder must not damage or corrupt, or try to damage or corrupt, any software or data related to the Registry.
- (4) A registered holder must not initiate a Registry transaction in relation to:
- (a) an Australian carbon credit unit; or
 - (b) a Kyoto unit; or
 - (c) a prescribed international unit;
- that the registered holder knows, or ought reasonably to know, has been incorrectly transferred to the registered holder's account.

Note Civil penalties, including those for ancillary contraventions, apply to a failure to comply with the requirements of this regulation — see section 27 of the Act.

35 Administrator may request information

The Administrator may, in writing, require a person to give the Administrator, within a specified time, information in relation to any request the person makes under these Regulations.

Note Section 88 of the Act provides for the Administrator's obligations in relation to requiring further information.

Regulation 36

Part 3 Kyoto units

Division 3.1 Transfer of Kyoto units

36 Domestic transfers of Kyoto units

For paragraph 34 (2) (c) of the Act, an instruction must set out the serial numbers of the units in the proposed transfer.

37 Outgoing international transfers of Kyoto units

For paragraph 35 (2) (b) of the Act, an instruction must set out the following information:

- (a) the serial numbers of the units in the proposed transfer;
- (b) the type and account number of the foreign account mentioned in paragraph 35 (1) (c) or (d);
- (c) the country where the foreign account is kept.

39 Kyoto rules — outgoing international transfers of Kyoto units

- (1) For paragraph 39 (1) (a) of the Act, this regulation sets out the requirements for the transfer of a Kyoto unit from a Registry account to a foreign account.
- (2) If the Administrator receives an instruction from a registered holder of one or more Kyoto units under subsection 35 (1) of the Act, the Administrator must, as soon as practicable, give the instruction to the international transaction log.
- (3) If the international transaction log notifies the Administrator that the instruction has been accepted, the Administrator must, as soon as practicable, give effect to the instruction in accordance with the Kyoto rules.
- (4) If subregulation (3) applies, the Administrator must:
 - (a) remove the entry for the unit from the relevant Registry account; and

- (b) notify the international transaction log of the action the Administrator has taken.
- (5) However, the Administrator must refuse to give effect to an instruction if the international transaction log notifies the Administrator that:
 - (a) there is a discrepancy with the instruction or the proposed transfer; or
 - (b) the proposed transfer has been rejected or cancelled.
- (6) If subregulation (5) applies, the Administrator must, as soon as practicable:
 - (a) make a record in the Registry of the action taken; and
 - (b) notify the international transaction log that the proposed transfer has been cancelled.

40 Kyoto rules — incoming international transfers of Kyoto units

- (1) For paragraph 39 (1) (b) of the Act, this regulation sets out the requirements for the transfer of a Kyoto unit from a foreign account to a Registry account.
- (2) The Administrator must refuse to give effect to an instruction under subsection 36 (1) of the Act if:
 - (a) the international transaction log notifies the Administrator that:
 - (i) there is a discrepancy with the instruction or the proposed transfer; or
 - (ii) the proposed transfer has been rejected or cancelled; or
 - (b) the instruction is given in the first commitment period, and giving effect to the instruction would result in the total Registry holdings of:
 - (i) long-term certified emissions reductions that have not been cancelled; and
 - (ii) temporary certified emissions reductions that have not been cancelled;exceeding 27,384,992 for the first commitment period.

Regulation 41

- (3) The Administrator must:
- (a) make a record in the Registry of:
 - (i) a refusal under subregulation (2) or subsection 36 (2) of the Act; or
 - (ii) a completed transfer under subsection 36 (1) of the Act; and
 - (b) notify the international transaction log of the record made under paragraph (a).

41 Commitment period reserve

- (1) For subsection 41 (1) of the Act, the Administrator must not give effect to an instruction mentioned in subregulation (2) or a request mentioned in subregulation (3) if the circumstances mentioned in subregulation (4) apply.
- (2) The instruction is:
- (a) an instruction under section 35 of the Act to transfer a Kyoto unit from a Registry account to a foreign account; or
 - (b) an instruction under section 154 of the Carbon Farming Act to transfer a Kyoto Australian carbon credit unit to a foreign account.
- (3) The request is a request under section 65 of the Act to transfer a Kyoto unit from a Registry account to the voluntary cancellation account for the relevant commitment period.
- (4) The circumstances are that the transfer would result in the total number of Kyoto units for the relevant commitment period in any of the following Registry accounts falling below the commitment period reserve:
- (a) all Registry accounts kept in the name of an account holder other than the Commonwealth of Australia;
 - (b) all Commonwealth holding accounts;
 - (c) the retirement account for the relevant commitment period.

Division 3.2 Dealings with emission reductions under the Kyoto rules

Subdivision 3.2.1 Cancellation of expired temporary certified emission reductions or long-term certified emission reductions

42 Cancellation after expiry

- (1) For subsection 42 (2) of the Act, the Administrator must:
 - (a) tell the registered holder of a temporary certified emission reduction or a long-term certified emission reduction, in writing, that the emission reduction is due to expire at least 21 days before its expiry date; and
 - (b) on the expiry date, transfer the emission reduction mentioned in paragraph (a) to the mandatory cancellation account for the same commitment period.
- (2) For paragraph (1) (b), the same commitment period is identified by the reference to the serial number of the unit.
- (3) A failure by the Administrator to tell the registered holder within the time specified in paragraph (1) (a) does not affect the validity of the transfer.

Note 1 An entry for a temporary certified emission reduction or long-term certified emission reduction in a Registry account will have an expiry date included in its serial number.

Note 2 A temporary certified emission reduction or long-term certified emission reduction may have been transferred to another registered holder between the date of the notice under paragraph (1) (a) and the expiry date.

Subdivision 3.2.2 Replacement and cancellation of long-term certified emission reductions

43 General

- (1) The regulations under this Subdivision are made for section 43 of the Act.

Regulation 44

(2) In this Subdivision:

cancellation day means the day the international transaction log notifies under subregulation 44 (1) or 45 (1) as the day that a specified number of long-term emission reductions mentioned in the notice must be replaced or cancelled.

replacement day means the day that is 7 days before the cancellation day for a specified number of long-term emission reductions mentioned in a notice under subregulation 44 (1) or 45 (1).

44 Notification of reversal of storage

- (1) This regulation applies if the international transaction log notifies the Administrator that a specified number of long-term certified emission reductions held in relation to a specified clean development mechanism project must be replaced or cancelled by the cancellation day because a reversal of storage for the project has occurred.
- (2) The Administrator must notify a registered holder of the emission reductions, in writing, of the following:
 - (a) that a specified number of the holder's long-term certified emission reductions held in relation to the project must be replaced;
 - (b) the replacement day, and that the replacement must occur 7 days before the cancellation day;
 - (c) the cancellation day;
 - (d) if the replacement has not occurred by the replacement day — that the specified number of emission reductions will be transferred to the mandatory cancellation account for the relevant commitment period.
- (3) The Administrator must work out the number of long-term certified emission reductions that the registered holder will be required to replace by:
 - (a) dividing the total number of long-term certified emission reductions specified in the notice as affected by the reversal of storage by the total number of long-term certified emission reductions for the project held in the Registry; and

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- (b) multiplying the result by the number of long-term certified emission reductions for the project that are held by the registered holder; and
 - (c) rounding up the result to the nearest whole number.
- (4) For paragraph (3) (a), the total number of long-term certified emission reductions for the project held in the Registry does not include cancelled or previously replaced long-term certified emission reductions.
- (5) The Administrator must notify the registered holder under subregulation (2) at least 21 days before the cancellation day.

45 Notification of non-submission of certification report

- (1) This regulation applies if the international transaction log notifies the Administrator that all remaining long-term certified emissions reductions held in relation to a clean development mechanism project must be replaced or cancelled by the cancellation day because a certification report for the project has not been submitted.
- (2) The Administrator must notify a registered holder of the emission reductions, in writing, of the following:
- (a) that all of the holder's long-term certified emission reductions held in relation to the project must be replaced;
 - (b) the replacement day, and that the replacement must occur 7 days before the cancellation day;
 - (c) the cancellation day;
 - (d) if the replacement has not occurred by the replacement day — that the relevant emission reductions will be transferred to the mandatory cancellation account for the commitment period.
- (3) The Administrator must notify the registered holder under subregulation (2) at least 21 days before the cancellation day.

Regulation 46

46 Replacement or cancellation of long-term certified emission reductions

- (1) This regulation applies if a registered holder of a long-term certified emission reduction receives a written notice from the Administrator under:
- (a) subregulation 44 (2); or
 - (b) subregulation 45 (2).

Registered holder to instruct the Administrator

- (2) The holder must, by the replacement day, instruct the Administrator, in accordance with section 34 of the Act, to:
- (a) in the circumstances in regulation 44 — transfer the particular units from the holder's Registry account to the long-term certified emission reduction replacement (storage reversal) account; or
 - (b) in the circumstances in regulation 45 — transfer particular units from the holder's Registry account to the long-term certified emission reduction replacement (non-certification) account.
- (3) The units mentioned in paragraph (2) (a) or (b) must be of a kind mentioned in paragraph 43 (3) (a), (b), (c), (d) or (e) of the Act.

Transfer to mandatory cancellation account

- (4) If the holder breaches the requirement to replace a long-term certified emission reduction under subregulation (2), the Administrator must, before the cancellation day:
- (a) in the circumstances in regulation 44 — transfer the specified number of the holder's long-term certified emission reductions for the project to the mandatory cancellation account for the relevant commitment period; or
 - (b) in the circumstances in regulation 45 — transfer all of the holder's long-term certified emission reductions for the project to the mandatory cancellation account for the relevant commitment period.

Regulation 48

48 A registered Kyoto unit is personal property for certain purposes

For paragraph 45 (2) (d) of the Act, the purposes of the *Proceeds of Crime Act 2002* is prescribed.

49 Transmission of Kyoto units by operation of law

Evidence of transmission

- (1) For paragraph 47 (2) (b) of the Act, the transferee must give the Administrator a certified copy of a document showing transmission of the title to the Kyoto units to the transferee.

Example

If a Kyoto unit has been transmitted on the making of an order by a court, including a sequestration order, the evidence of the transmission would be a certified copy of the order.

Declaration of transmission

- (2) For subsection 47 (3) of the Act, a declaration of transmission must:
- (a) be made in writing; and
 - (b) identify the serial numbers of the Kyoto units to be transmitted; and
 - (c) set out the name, address (if relevant) and Registry account number of the transferor; and
 - (d) set out the name, address and Registry account number (if any) of the transferee; and
 - (e) include a brief description of the circumstances that resulted in the transmission; and
 - (f) be signed by the transferee.

Note If the transferee does not already have a Registry account, the transferee must request that one be opened in the transferee's name — see subsection 47 (4) of the Act.

Part 5 **Publication of information**

50 **Kyoto information**

For subsection 60 (1) of the Act, the Administrator must publish on its website the information required to be made publicly available under paragraphs 44 to 48 of the Annex to Decision 13/CMP.1 of the Meeting of the Kyoto Parties.

Schedule 1 Documents for identifying Australian citizens or residents

(subregulation 18 (2))

Category A documents

1. A birth certificate issued by a State or Territory.
2. A current passport issued by the Commonwealth.
3. A citizenship certificate issued by the Commonwealth, or documentary evidence that the individual has been registered by the Commonwealth as an Australian citizen by descent.
4. A passport or similar document issued for the purpose of international travel, that:
 - (a) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (b) is issued by a foreign government, the United Nations or an agency of the United Nations; and
 - (c) has evidence of the individual's immigration status in Australia.

Category B documents

1. A driver's licence or a learner's permit, issued under a law of a State or Territory, that includes:
 - (a) a photograph of the individual and the individual's signature; and
 - (b) a street address that is the same as the address stated in the request.
2. A Medicare card.
3. A notice issued within the previous 3 months to the individual by a local government body or utilities provider, which:
 - (a) contains the individual's name; and

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- (b) contains the individual's street address; and
 - (c) records the provision of services by the local government body or utilities provider to that address or the individual.
4. An Australian firearms licence issued under a law of a State or Territory that includes:
- (a) the individual's signature; and
 - (b) a photograph of the individual; and
 - (c) a street address that is the same as the address stated in the request.
5. A secondary school or tertiary education student identification card that:
- (a) includes a photograph of the individual; and
 - (b) was issued by an education authority that has been accredited by the Commonwealth, a State or Territory government.

Schedule 2 Documents for identifying individuals who are foreign persons

(subregulation 18 (3))

Category A documents

1. A passport or similar document issued for the purpose of international travel, that:
 - (a) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (b) is issued by a foreign government, the United Nations or an agency of the United Nations.
2. A birth certificate issued by a foreign government, the United Nations or an agency of the United Nations.
3. A national identity card issued for the purpose of identification, that:
 - (a) contains a photograph and the signature of the individual in whose name the document is issued; and
 - (b) is issued by a foreign government, the United Nations or an agency of the United Nations.

Category B documents

1. A document issued by a foreign government that identifies the individual.
2. A marriage certificate issued by a foreign government.
3. A driver's licence issued by a foreign government for the purpose of driving a vehicle that contains:
 - (a) a photograph of the individual in whose name the licence is issued; and
 - (b) a street address that is the same as the address stated in the request.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.