



Australian National Registry of Emissions Units Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 76

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

Dated 24 May 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

GREG COMBET
Minister for Climate Change and Energy Efficiency

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1 Name of regulation

This regulation is the *Australian National Registry of Emissions Units Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences as follows:

- (a) on the day after it is registered—sections 1 to 3 and Schedule 1;
- (b) on 1 July 2012—Schedule 2.

3 Amendment of *Australian National Registry of Emissions Units Regulations 2011*

Schedules 1 and 2 amend the *Australian National Registry of Emissions Units Regulations 2011*.

Schedule 1 Amendments commencing on day after registration

(section 3)

[1] Regulation 3, definition of *certified copy*, paragraph (a)

substitute

- (a) a copy of a document that has been certified as a true copy by one of the following persons who is in Australia:
- (i) a bank, building society or credit union officer with 5 or more continuous years service;
 - (ii) a commissioner for declarations;
 - (iii) a judge of a court;
 - (iv) a justice of the peace;
 - (v) a legal practitioner;
 - (vi) a medical practitioner;
 - (vii) a minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*;
 - (viii) a police officer;
 - (ix) a sheriff or a sheriff's officer; and

[2] Regulation 3, definition of *certified copy*, paragraph (b) (ii) and note

substitute

- (ii) a competent authority under the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at The Hague on 5 October 1961.

Note 1 Information about competent authorities under the convention can be found on the Hague Conference on Private International Law's website at www.hcch.net.

Note 2 The text of this convention is set out in Australian Treaty Series 1995 No. 11 ([1995] ATS 11).

[3] Regulation 3

insert

Clean Energy Act means the *Clean Energy Act 2011*.

[4] Regulation 3

insert

fit and proper person criteria means the criteria for recognition set out in section 64 of the Carbon Farming Act and any regulations made under that section.

[5] Regulation 3

insert

Indigenous Corporation Number or ***ICN*** has the meaning given by section 700–1 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

[6] Regulation 3, note

substitute

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

- Australian carbon credit unit
- carbon 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

-
- Regulator
 - temporary certified emission reduction
 - transfer
 - voluntary cancellation account.

[7] Subregulation 9 (4), table, item 3

substitute

- 3 The person's ABN, ACN, ARBN, GST registration number, ICN or other unique number

[8] Regulation 11, heading

substitute

11 Further information and documents

[9] Subregulation 11 (1)

after

further information

insert

or documents

[10] After subregulation 11 (2)

insert

- (3) This regulation applies despite regulation 17.

[11] Subregulation 13 (2)

substitute

- (2) The Regulator may open a Registry account only if the Regulator:
- (a) is satisfied of the identity of the person in whose name the account is to be opened, having regard to the evidence reviewed by the Regulator under subregulation 23 (1); and
 - (b) for either of the following persons—has considered whether the person is a fit and proper person, having regard to the fit and proper person criteria, and is either satisfied or not satisfied that the person meets the criteria:
 - (i) a person who is a *liable entity* for section 5 of the Clean Energy Act;
 - (ii) a person who is eligible under Part 8 of the Clean Energy Act or Schedule 1 to the *Clean Energy Regulations 2011* to be issued free carbon units; and
 - (c) for any other person—has considered whether the person is a fit and proper person, having regard to the fit and proper person criteria, and is satisfied that the person meets the criteria; and
 - (d) for a person who is an entity—is satisfied that the individual making the request has been authorised by the entity and has sufficient authority to act on the entity's behalf.

[12] Paragraph 14 (2) (b)

substitute

- (b) the person must provide:
- (i) if the Regulator asks to see the original document—the original document; or
 - (ii) otherwise—a certified copy of the original document.

[13] Subregulation 16 (3), definition of *authorised translation service*

after

Translators and Interpreters

insert

Limited

[14] Paragraph 17 (1) (a)

after

document

insert

, or a certified copy of the document,

[15] Subparagraph 17 (1) (a) (i)

substitute

- (i) the *National Greenhouse and Energy Reporting Act 2007*; or

[16] Subregulation 31 (2)

substitute

- (2) The Regulator may give the authorised representative access to a Registry account only if the Regulator:
- (a) is satisfied of the identity of the authorised representative, having regard to the evidence reviewed by the Regulator under subregulation 23 (2); and
 - (b) has considered whether the authorised representative is a fit and proper person, having regard to the fit and proper person criteria, and is satisfied that the authorised representative meets the criteria.
- (2A) An authorised representative for a Commonwealth Registry account who is an SES employee is taken to meet the fit and proper person criteria.

[17] Subregulation 32 (3)

omit

Administrator

insert

Regulator

[18] Subregulation 33 (1)

substitute

- (1) The registered holder must notify the Regulator, in the approved form, of any of the following, within 28 business days after the change takes place:
- (a) a change of the registered holder's name, business name or trading name;
 - (b) a change of the registered holder's contact details;
 - (c) a change of the name of the registered holder's authorised representative;
 - (d) a change of the contact details of the registered holder's authorised representative;
 - (e) a change in relation to whether the registered holder, or the registered holder's authorised representative, continues to meet the fit and proper person criteria.
- (1A) The following notices of change of name must be accompanied by a document that evidences the change of name:
- (a) a notice of change of the registered holder's name, business name or trading name;
 - (b) a notice of change of the name of the registered holder's authorised representative.

[19] After regulation 37

insert

38 Conversion of assigned amount units or removal units

- (1) The conditions that must be satisfied for paragraph 38 (1) (e) of the Act are:
 - (a) the unit must have been issued in relation to a joint implementation project that:
 - (i) is approved by the National Authority; and
 - (ii) is conducted in accordance with any requirements applying to joint implementation projects under the Kyoto rules; and
 - (b) the person must provide the Regulator with the ITL project ID for the project; and
 - (c) for the conversion of an assigned amount unit that was obtained as a result of a sequestration offsets project:
 - (i) a removal unit must have been issued to the Commonwealth for abatement that happened during the first commitment period; and
 - (ii) the removal unit must be available for exchange in the Commonwealth holding account.
- (2) The steps that the Regulator must take for subsection 38 (2) of the Act are:
 - (a) for the conversion of an assigned amount unit that was obtained as a result of an emissions avoidance offsets project—the steps required by the Kyoto rules; or
 - (b) for the conversion of an assigned amount unit that was obtained as a result of a sequestration offsets project:
 - (i) remove the entry for the assigned amount unit from the person's Registry account; and
 - (ii) convert a removal unit that is available for exchange in the Commonwealth holding account to an emission reduction unit, in accordance with the Kyoto rules; and

- (iii) remove the entry for the emission reduction unit from the Commonwealth holding account; and
- (iv) make an entry for the emission reduction unit in the person's Registry account; or
- (c) for the conversion of a removal unit—the steps required by the Kyoto rules.

(3) In this regulation:

emissions avoidance offsets project has the meaning given by section 53 of the Carbon Farming Act.

ITL project ID, for a joint implementation project, means the project identifier used by the international transaction log for the project.

joint implementation project means a project that is treated as a joint implementation project for the purposes of the relevant provisions of the Kyoto rules.

National Authority means the National Authority for the clean development mechanism (CDM) and joint implementation (JI), established in accordance with the Kyoto Protocol.

sequestration offsets project has the meaning given by section 54 of the Carbon Farming Act.

[20] Regulation 48

substitute

48 A registered Kyoto unit is personal property for certain purposes

The following purposes are prescribed for paragraph 45 (2) (d) of the Act:

- (a) the purposes of the *Personal Property Securities Act 2009*;
- (b) the purposes of the *Proceeds of Crime Act 2002*.

[21] Paragraph 49 (2) (b)

omit

to be transmitted

Schedule 2 Amendments commencing on 1 July 2012

(section 3)

[1] Paragraph 24 (o)

omit

period.

insert

period;

[2] After paragraph 24 (o)

insert

(p) a carbon unit surrender account for a particular vintage year;

(q) a carbon unit relinquishment account;

(r) a carbon unit relinquishment for auction account;

(s) a carbon unit cancellation account.

[3] After paragraph 27 (1) (a)

insert

(aa) there are no entries for any carbon units in the account;
and

[4] Paragraph 28 (3) (b)

after

subregulations

insert

(3A),

[5] Before subregulation 28 (4)

insert

- (3A) If, immediately before the Regulator closes the Registry account, there is an entry for a carbon unit in the account, the unit is cancelled.

[6] Before paragraph 33 (2) (a)

insert

- (aa) a carbon unit; or

[7] Before paragraph 34 (4) (a)

insert

- (aa) a carbon unit; or

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.