

## EXPLANATORY NOTES

### BILL

### No. 132

### An Act to amend *The Management and Reduction of Greenhouse Gases Act*

#### Clause of Bill

1 *The Management and Reduction of Greenhouse Gases Amendment Act, 2018*

2 *The Management and Reduction of Greenhouse Gases Act*

3 **Existing Provision**

**2** In this Act:

- (a) **“carbon compliance payment”** means an amount required to be paid pursuant to section 20 by a regulated emitter to the Fund with respect to the regulated emitter’s prescribed greenhouse gas emissions level; **(Not yet proclaimed)**
- (b) **“carbon compliance price”** means the prescribed price to be paid to the Fund for the emission of one tonne of CO<sub>2</sub>e; **(Not yet proclaimed)**
- (c) **“CO<sub>2</sub>e”** means the mass of carbon dioxide that would produce the same global warming potential as a given mass of another greenhouse gas determined in the prescribed manner;
- (d) **“code”** means the code adopted by the Lieutenant Governor in Council in the regulations;
- (e) **“council”** means the Climate Change Advisory Council established pursuant to section 10;
- (f) **“enforcement officer”** means an enforcement officer appointed pursuant to section 9;
- (g) **“Environment Corporation”** means the Saskatchewan Environment Corporation established pursuant to section 46; **(Not yet proclaimed)**
- (h) **“Foundation”** means the Saskatchewan Climate Change Foundation established pursuant to section 39; **(Not yet proclaimed)**
- (i) **“Fund”** means the Saskatchewan Technology Fund Corp. established pursuant to section 24; **(Not yet proclaimed)**
- (j) **“greenhouse gas”** means:
  - (i) carbon dioxide (CO<sub>2</sub>);
  - (ii) methane (CH<sub>4</sub>);
  - (iii) nitrous oxide (N<sub>2</sub>O);
  - (iv) prescribed categories of hydrofluorocarbons (HFCs);
  - (v) prescribed categories of perfluorocarbons(PFCs);

- (vi) sulphur hexafluoride (SF<sub>6</sub>); or
- (vii) any other prescribed gas;
- (k) **“greenhouse gas emission baseline”** means the baseline amount of greenhouse gas emissions for Saskatchewan, expressed in CO<sub>2</sub>e, in the year selected in accordance with section 4;
- (l) **“minister”** means the member of Executive Council to whom for the time being the administration of this Act is assigned;
- (m) **“ministry”** means the ministry over which the minister presides;
- (n) **“offset credit”** means a credit for any prescribed activity that:
  - (i) reduces the emission of greenhouse gases; or
  - (ii) sequesters greenhouse gases; **(Not yet proclaimed)**
- (o) **“performance agreement”** means an agreement entered into by the minister pursuant to clause 7(2)(o); **(Not yet proclaimed)**
- (p) **“performance credit”** means a credit expressed in CO<sub>2</sub>e that is approved by the minister for a regulated emitter whose actual emissions for a year are less than the emissions level prescribed for that regulated emitter with respect to a regulated facility of that regulated emitter after applying the prescribed reductions of emissions against the regulated emitter’s applicable baseline emission level; **(Not yet proclaimed)**
- (q) **“pre-certified investment”** means a large-scale and transformative project that is designed to result in a reduction in greenhouse gas emissions and is determined by the minister to be a pre-certified investment pursuant to clause 7(2)(k) and the regulations; **(Not yet proclaimed)**
- (r) **“prescribed”** means prescribed in the regulations;
- (s) **“qualified person”** means:
  - (i) a member of a class of persons that is prescribed or is set out in the code; or
  - (ii) a person or a member of a class of persons designated by the minister for one or more purposes or activities that are governed by this Act;
- (t) **“recognition for early action”** means a certificate specifying an amount of tonnes of CO<sub>2</sub>e provided by the minister pursuant to clause 7(2)(j) and the regulations to a regulated emitter to recognize actions taken before the coming into force of this Act by that regulated emitter to reduce greenhouse gas emissions; **(Not yet proclaimed)**
- (u) **“regulated emitter”** means a prescribed person, or a person who is a member of a class of prescribed persons, who:
  - (i) emits a greenhouse gas; and
  - (ii) meets the prescribed requirements;
- (v) **“regulated emitter’s prescribed greenhouse gas emissions level”** means the level of greenhouse gas emissions for a regulated emitter after applying the reductions in greenhouse gas emissions prescribed pursuant to section 18 with respect to the regulated emitter;

- (w) **“Research Corporation”** means the Saskatchewan Climate Research and Development Corp. established pursuant to section 32; **(Not yet proclaimed)**
- (x) **“Saskatchewan Initiatives”** means initiatives, targets, plans, proceedings and goals for Saskatchewan that:
  - (i) relate to climate change and greenhouse gas emissions; and
  - (ii) are prescribed or otherwise established by the Lieutenant Governor in Council; **(Not yet proclaimed)**
- (y) **“standards”** means standards, policies or protocols developed or established by the minister.

2010, c.M-2.01, s.2.

#### **Explanation**

Amendments will update the definitions used within the Act. This includes removing terminology that no longer applies within the Act (for example, ‘carbon compliance payment’ which was a calculation that is to be repealed), and introducing new terms that will be used within the amended Act (for example, ‘compliance obligation’, which will be used in reference to if a regulated emitter exceeds its allotted emissions within the provincial output based performance standards).

#### **4 Existing Provision**

None

#### **Explanation**

The Government of Canada has indicated that it may impose its own system of regulating greenhouse gas emissions from large emitters located in Saskatchewan. Should that circumstance occur, the amendment allows for those large emitters to be exempted from this Act in order to avoid dual regulation on the same greenhouse gas emissions.

#### **5(1) Existing Provision**

**7(2)** For the purposes of carrying out the minister’s responsibilities, the minister may:

- (a) guide, promote, co-ordinate, adopt and implement policies, strategies and programs respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (b) undertake planning, research and investigations and make forecasts respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (c) install, operate and maintain, or cause to be installed, operated or maintained, devices to measure greenhouse gases;
- (d) obtain and collect data respecting greenhouse gas emissions, climate change and adaptation to climate change;

- (e) provide information to the public, and undertake programs of education, awareness and demonstration, respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (f) promote the reduction of greenhouse gas emissions and the sequestration of greenhouse gases;
- (g) maintain records of greenhouse gas emissions;
- (h) recommend targets for reductions of greenhouse gas emissions;
- (i) establish, maintain or approve the use of registries of offset credits and, if the minister approves the use of a registry of offset credits, the minister may determine:
  - (i) the manner in which the registry may be used; and
  - (ii) the terms and conditions governing the use of the registry; **(Not yet proclaimed)**
- (j) subject to the regulations, recognize actions taken before the coming into force of this Act to reduce greenhouse gas emissions and, for that purpose, may:
  - (i) establish guidelines, policies and standards respecting the criteria for recognition for early action, who may apply for recognition for early action and the manner of applying for recognition for early action; and
  - (ii) issue certificates and impose any terms and conditions that the minister considers appropriate on those certificates; **(Not yet proclaimed)**
- (k) subject to the regulations, determine when an investment will be determined to be a pre-certified investment and, for that purpose, may:
  - (i) establish guidelines, policies and standards respecting the criteria for approving the granting of tonnes of CO<sub>2</sub>e with respect to investments, who may apply for the grant of those tonnes of CO<sub>2</sub>e and the manner of applying; and
  - (ii) approve the granting of tonnes of CO<sub>2</sub>e in recognition of investments mentioned in subclause (i) and impose any terms and conditions that the minister considers appropriate on those approvals; **(Not yet proclaimed)**
- (l) subject to the regulations, determine other amounts of CO<sub>2</sub>e that regulated emitters may deduct when calculating greenhouse gas emissions for the purposes of a return required by section 19 and, for that purpose, may:
  - (i) establish guidelines, policies and standards respecting the criteria for determining those amounts, who may apply to receive permission to deduct those amounts and the manner of applying for permission; and
  - (ii) permit those deductions and impose any terms and conditions that the minister considers appropriate on those permissions; **(Not yet proclaimed)**
- (m) develop or adopt standards, including protocols, respecting any matter governed by this Act;
- (n) subject to the approval of the Lieutenant Governor in Council and the regulations:
  - (i) incorporate one or more bodies corporate for the purposes of carrying out activities authorized pursuant to this Act or the regulations; and
  - (ii) either:

- (A) become a shareholder or member of that corporation; or
- (B) hold shares issued by or a membership interest in that corporation if:
  - (I) the shares or membership interest have been issued for nominal consideration; and
  - (II) the shares or membership interest do not entitle the holder to receive dividends or to receive the remaining property of the corporation on dissolution; **(Not yet proclaimed)**
- (o) subject to the regulations, enter into performance agreements with any regulated emitter or any other person; **(Not yet proclaimed)**
- (p) designate persons or classes of persons who are qualified persons and impose terms and conditions that the minister considers appropriate on those designations; and
- (q) do any other thing that the minister considers appropriate to carrying out the minister's responsibilities or to exercising the minister's powers pursuant to this Act and the regulations.

2010, c.M-2.01, s.7; 2014, c.E-13.1, s.62.

### **Explanation**

Provisions regarding early action and pre-certified investments are no longer required, as these circumstances were captured during the development of individual performance standards for large industrial emitters.

Provisions regarding bodies corporate are similarly no longer required, as subsequent amendments remove these bodies from the Act.

The powers surrounding qualified persons were expanded to allow the minister to reject persons or classes of persons as qualified persons. This provides the minister with flexibility in determining who may be considered a qualified person for the purposes of this Act and any associated regulations.

Amendments will allow the minister to award performance credits and for both performance credits and offset credits to be used as a compliance option, which was a commitment made in Prairie Resilience.

Powers are also provided to the minister to determine a regulated emitter's compliance obligation and associated use of compliance options, which is required for the province's output based performance standard system.

### **5(2) Existing Provision**

7(3) The minister shall recommend to the Lieutenant Governor in Council the adoption of a code.

2010, c.M-2.01, s.7; 2014, c.E-13.1, s.62.

### **Explanation**

The amendment clarifies that the minister is not required to recommend adoption of a code chapter for the purposes of this Act, however it is an option available.

**5(3) Existing Provision (Not yet proclaimed)**

7(7) If the minister incorporates a body corporate pursuant to this section, the minister shall:

- (a) cause a notice of the incorporation to be published in the Gazette; and
- (b) lay before the Legislative Assembly a report, in accordance with *The Tabling of Documents Act, 1991*, outlining:
  - (i) the name of the body corporate;
  - (ii) the reasons for its incorporation; and
  - (iii) whether or not the minister is a member of that corporation or holds any shares or membership interest in that corporation.

7(8) The Lieutenant Governor in Council may issue a declaration that any body corporate incorporated pursuant to this section is not an agent of the Crown and, if a declaration is issued pursuant to this section, the declaration prevails over any other Act or law.

2010, c.M-2.01, s.7; 2014, c.E-13.1, s.62.

**Explanation**

Bodies corporate referred to a number of foundations and corporations that will be repealed from the Act in subsequent amendments. These bodies are no longer in alignment with the government's approach to climate change.

**5(4) Existing Provision**

7(10) Before the minister takes any action pursuant to subsection (9), the minister shall give the qualified person:

- (a) written notice of the minister's intended action and the reasons for that intended action; and
- (b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is served, as to why the intended action should not be taken.

2010, c.M-2.01, s.7; 2014, c.E-13.1, s.62.

**Explanation**

Previous amendments enabled the minister to reject persons or classes of persons as qualified persons in order to provide the minister with needed flexibility. This amendment expands the requirements of the subsection to include circumstances where a person is rejected as a

qualified person, or terms and conditions are placed upon a qualified person. In these situations, written notice and an opportunity to appeal are appropriate.

**6**      **Existing Provision**

9(1) The minister may appoint any persons or class of persons as enforcement officers for the purpose of enforcing or overseeing the enforcement of this Act, the regulations and the code.

(2) The minister may set any limit or condition on any appointment pursuant to subsection (1) that the minister considers reasonable.

2010, c.M-2.01, s.9.

**Explanation**

The original Act used the terms ‘enforcement officer’ and ‘environment officer’ interchangeably. The amendment corrects the term to ‘environment officer’ consistently throughout the Act. These environment officers are provided with the powers of peace officers for the purposes of enforcement, which is consistent with *The Environmental Management and Protection Act*.

**7**      **Existing Provision (Not yet proclaimed)**

10(1) The Climate Change Advisory Council is established.

(2) The council consists of the minister and not more than 11 other members appointed by the Lieutenant Governor in Council.

(3) A person appointed in accordance with subsection (2):

(a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and

(b) is eligible for reappointment.

(4) If a member appointed pursuant to subsection (2) dies or resigns, the person ceases to be a member on the date of death or on the day on which the resignation is received by the council, as the case may be.

(5) If the office of a member appointed pursuant to subsection (2) becomes vacant, the Lieutenant Governor in Council may:

(a) appoint a person for the remainder of the term of the person who vacated the office; or

(b) appoint a person for the term mentioned in subsection (3).

(6) No member of the council, other than the minister or a member of the council who is also a member of the public service, shall hold office for more than two consecutive terms.

- (7) The council shall meet at the request of the minister.
- (8) The minister is the chairperson of the council.
- (9) The council shall advise the minister on:
  - (a) matters relating to greenhouse gas emissions, climate change and adaptation to climate change;
  - (b) best management practices to address climate change and adaptation to climate change; and
  - (c) any other matter determined by the minister.
- (10) Members of the council, other than the minister, are entitled to the following:
  - (a) except for those members of the council who are members of the public service of Saskatchewan, remuneration for their services at the rates approved by the Lieutenant Governor in Council; and
  - (b) reimbursement for their expenses incurred in the performance of their responsibilities at rates approved by the Lieutenant Governor in Council for members of the public service.
- (11) The minister shall provide any technical, clerical and other assistance that the council may require and that the minister considers reasonable.

2010, c.M-2.01, s.10.

**11** In this Part, “**office**” means the Office of Climate Change established pursuant to section 12.

2010, c.M-2.01, s.11.

**12(1)** The Office of Climate Change is established within the ministry.

(2) The co-ordinator appointed pursuant to section 13 is responsible for managing and administering the affairs of the office.

2010, c.M-2.01, s.12.

**13(1)** The minister shall appoint a co-ordinator of the office.

(2) The co-ordinator appointed pursuant to subsection (1) shall:

- (a) subject to the direction of the minister, represent the Government of Saskatchewan on matters related to climate change and adaptation to climate change; and
- (b) perform any other duties assigned by the minister.

2010, c.M-2.01, s.13

**14** The purposes of the office are to:

- (a) prepare, co-ordinate and implement the Saskatchewan Initiatives;
- (b) promote the reduction of greenhouse gas emissions in Saskatchewan; and
- (c) assist Saskatchewan residents and Saskatchewan’s economy to adapt to climate change and to address the impacts of climate change.

2010, c.M-2.01, s.14.



**15** Without restricting the minister's right to exercise any of the minister's powers pursuant to this Act, the minister may direct the office to do any of the following:

- (a) guide, promote, co-ordinate and implement policies, strategies and programs respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (b) undertake planning, research and investigations and make forecasts respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (c) install, operate and maintain, or cause to be installed, operated or maintained, devices to measure greenhouse gases;
- (d) obtain and collect data respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (e) provide information to the public, and undertake programs of education, awareness and demonstration, respecting greenhouse gas emissions, climate change and adaptation to climate change;
- (f) promote the reduction of greenhouse gas emissions and the sequestration of greenhouse gases;
- (g) maintain records of greenhouse gas emissions;
- (h) recommend targets for reductions of greenhouse gas emissions;
- (i) establish, maintain or approve the use of registries of offset credits and, if the office approves the use of a registry of offset credits, the office may determine:
  - (i) the manner in which the registry may be used; and
  - (ii) the terms and conditions governing the use of the registry;
- (j) develop or adopt any guideline, standard, objective, management criterion, protocol or similar instrument;
- (k) at the request of the minister, make recommendations on any matters governed by this Act;
- (l) undertake any other duties that the minister may direct.

2010, c.M-2.01, s.15.

**16(1)** In each fiscal year, the office shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister an annual report on the activities of the office for the preceding fiscal year.

(2) The minister shall, in accordance with *The Tabling of Documents Act, 1991*, lay before the Legislative Assembly each report received by the minister pursuant to this section.

2010, c.M-2.01, s.16; 2014, c.E-13.1, s.62.

### **Explanation**

The existing provisions created an Advisory Council and an Office of Climate Change for the purposes of administering and implementing the province's climate change programming. This

approach is no longer in alignment with Saskatchewan's direction for climate change as detailed in *Prairie Resilience*. The amendments therefore repeal the sections pertaining to both the Advisory Council and the Office of Climate Change. A similar Advisory Committee, comprised of membership from regulated large emitters, will be established to advise the minister on matters pertaining to the provincial technology fund.

**8** **Existing Provision**

None.

**Explanation**

Previously, the Act only provided for a regulated reduction of greenhouse gas emissions on the basis of an established baseline. The province's approach to regulating greenhouse gas emissions from large industrial emitters is on an *emissions intensity* basis through output based performance standards. The amendment provides flexibility in the manner in which regulated emitters are required to reduce their emissions. It also introduces a requirement that emitters who fail to meet their prescribed target accrue and must fulfill a compliance obligation.

**9** **Existing Provision**

**18** For each prescribed year, every regulated emitter shall reduce its greenhouse gas emissions by the prescribed amount below the baseline emission level for the regulated emitter established pursuant to section 17.

2010, c.M-2.01, s.18.

**Explanation**

This existing requirement to reduce emissions was specific to a reduction against an established baseline of emissions. The requirement to reduce emissions is now captured by the new section introduced in section 8 of the Amendment Act. As this new section is generally enabling in its provisions, it captures reductions against a baseline as described in this existing provision, rendering it redundant.

**10** **Existing Provision**

**19(1)** Every regulated emitter shall submit to the minister an annual return that:

- (a) shows the regulated emitter's greenhouse gas emissions; and
  - (b) contains the prescribed information.
- (2) An annual return required by subsection (1) must be submitted on or before the prescribed date.
- (3) When submitting the annual return required by subsection (1) for the first time, a

regulated emitter shall include an opinion from a qualified person verifying the accuracy of the return.

(4) The minister may, by notice in writing to a regulated emitter, require that an annual return by that regulated emitter after its first return include an opinion from a qualified person verifying the accuracy of an annual return or returns specified in the written notice.

(5) A written notice given pursuant to subsection (4) is effective for the annual return or returns specified in the written notice.

(6) If the minister gives a written notice pursuant to subsection (4), the opinion from a qualified person must be provided by the later of:

(a) the date on which the annual return with respect to which the minister has required the opinion is to be submitted pursuant to subsection (2); and

(b) the day that is 90 days after the date on which the minister gives a written notice pursuant to subsection (4).

2010, c.M-2.01, s.19.

### **Explanation**

The provision in question will be used to require returns on greenhouse gas emissions and production data from facilities subject to an output based performance standard. The existing provision was specific in requiring these returns to be *annual*. The amendment removes this specificity, allowing for flexibility in the frequency of returns that regulated emitters are required to submit. The amendment also requires an opinion from a qualified person on all returns, which is consistent with international best practices for the regulation of industrial greenhouse gas emissions.

### **11 Existing Provision (Not yet proclaimed)**

**20(1)** For each calendar year in which a regulated emitter has not reduced its greenhouse gas emissions as required by section 18, the regulated emitter shall pay to the Fund a carbon compliance payment.

(2) The amount of a carbon compliance payment a regulated emitter shall pay is the positive amount CCP calculated in accordance with the following formula:

$$CCP = [A - P - O - PC - PCI - REA - OC] \times C$$

where:

A is the regulated emitter's actual greenhouse gas emissions level for the year;

P is the regulated emitter's prescribed greenhouse gas emissions level for the year after application of the reductions that are required pursuant to section 18;

O is any offset credit utilized by the regulated emitter for the year towards achievement of its prescribed reductions in accordance with subsection (3);

PC is the number of tonnes of CO<sub>2</sub>e of performance credits utilized by the regulated emitter for the year towards achievement of its prescribed reductions in accordance with subsection (3);

PCI is the number of tonnes of CO<sub>2</sub>e allocated to the regulated emitter by the minister as a result of investment by that regulated emitter in a pre-certified investment that the regulated emitter is able to include during the year towards the achievement of its prescribed reductions;

REA is the number of tonnes of CO<sub>2</sub>e allocated to the regulated emitter by the minister with respect to recognition for early action that the regulated emitter is able to include in the year towards the achievement of its prescribed reductions;

OC is the amount of other tonnes of CO<sub>2</sub>e that the minister permits the regulated emitter to deduct pursuant to clause (3)(e); and

C is the carbon compliance price.

- (3) Subject to the regulations and to the code, when calculating the carbon compliance payment required by subsection (2), the regulated emitter may deduct:
- (a) any offset credits acquired by the regulated emitter and used by the regulated emitter towards its prescribed reduction requirements;
  - (b) any amount of tonnes of CO<sub>2</sub>e allocated to the regulated emitter by the minister as a result of investment by that regulated emitter in a pre-certified investment;
  - (c) any amount of tonnes of CO<sub>2</sub>e that the minister approves the regulated emitter using as performance credits and that are used by the regulated emitter towards its prescribed reduction requirements;
  - (d) any amount of tonnes of CO<sub>2</sub>e allocated to the regulated emitter by the minister with respect to a recognition for early action; and
  - (e) any other amounts of tonnes of CO<sub>2</sub>e that may be allocated to the regulated emitter by the minister or that the minister or this Act permits the regulated emitter to use.
- (4) A regulated emitter shall:
- (a) pay the carbon compliance payment to the Fund on or before filing its annual return required pursuant to section 19; and
  - (b) at the time it files its annual return required pursuant to section 19, provide evidence satisfactory to the minister that it has paid the carbon compliance payment mentioned in clause (a).
- (5) Unless otherwise prescribed, section 19 and this section:
- (a) apply to each facility owned or operated by a regulated emitter; and
  - (b) in the case of a class of regulated emitters prescribed for the purposes of clause 17(1)(b), apply in the prescribed manner to all facilities owned or operated by a regulated emitter.
- (6) Before an offset credit can be included in a calculation pursuant to this section, it must satisfy the requirements of this Act, the regulations and the code.
- (7) If a regulated emitter fails to pay a carbon compliance payment within the time

required by this section:

- (a) the amount of the carbon compliance payment is a debt due and owing to the Fund;
- (b) the regulated emitter is liable to the Fund, in addition to the amount of the carbon compliance payment, for interest, not to exceed the prescribed rate, on the amount of the unpaid carbon compliance payment from the day that the carbon compliance payment was required to be paid to the day that it is paid; and
- (c) the Fund may recover the carbon compliance payment and any interest pursuant to clause (b) in any manner authorized by law.

2010, c.M-2.01, s.20.

### **Explanation**

The existing provision ties compliance under a greenhouse gas emissions reductions program to a carbon compliance payment towards a technology fund. The amendment removes this restrictive formula, allowing for new approaches to be applied to regulated emitters. This includes establishing compliance obligations on regulated emitters whose greenhouse gases exceed their allotment, and enables for flexible compliance options to be provided to these regulated emitters for the purposes of fulfilling their obligation. The formulas associated with this process will now be determined in regulations enabled under the Act rather than within the Act itself.

## **12 Existing Provision**

**21(3)** A prescribed electrical utility or a member of a prescribed class of electrical utilities or any prescribed person providing natural gas services or member of a prescribed class of persons providing natural gas services shall:

- (a) examine conservation measures and evaluate energy choices when examining:
  - (i) greenhouse gas emission reduction programs; and
  - (ii) any other program that is prescribed for the purposes of this Act; and
- (b) report to the minister at the prescribed times.

(4) A report submitted pursuant to this section must contain the prescribed information.

2010, c.M-2.01, s.21.

### **Explanation**

The amendment removes language specific to greenhouse gas emissions programming for the electricity and natural gas sectors, as those entities can be considered regulated emitters and covered by section 8 of the Amendment Act. The requirement for any report to contain the prescribed information is provided for in section 84 of the Act, which provides regulatory making powers to the Lieutenant Governor. It is therefore not necessary to include such provisions here.

**13**      **Existing Provision (Not yet proclaimed)**

**22** Prescribed persons, or members of prescribed classes of persons, who emit greenhouse gases and who are not regulated emitters shall:

- (a) develop and implement greenhouse gas emission reduction programs in the manner and to the extent that the minister, subject to the regulations, may determine; and
- (b) provide reports to the minister on the greenhouse gas emission reduction programs mentioned in clause (a) at the times and containing the information that the minister may specify.

2010, c.M-2.01, s.22.

**Explanation**

The existing provision contains ambiguous language that applies reduction requirements upon entities that are not considered regulated emitters. Any emitter who is required to reduce emissions will be considered a regulated emitter for the purposes of this Act, and subject to one of the ministry's reduction programs. The amendment therefore removes this unnecessary provision from the Act.

**14**      **Existing Provision**

None.

**Explanation**

The existing provisions regarding a provincial technology fund are repealed under section 15 of the Amendment Act. New legislative authority is provided for the creation of a provincial technology fund that is better suited to Saskatchewan's climate change approach. The provisions allow for the appointment of an Advisory Committee to advise the minister on the use and administration of the technology fund. The fund shall consist of payments made as a compliance option to satisfy a compliance obligation that a regulated emitter has accrued, as well as payments made in regards to administrative penalties under this Act and monies collected by another Act or regulation related to the reduction of greenhouse gas emissions. It is made clear and apparent that the technology fund is to be held distinct and separate from the General Revenue Fund. The details of how projects may be awarded money under the technology fund are determined in regulations, however the amendment specifies that the supported initiatives are to be related to the mitigation, sequestration or capture of greenhouse gas emissions. Additional standard provisions are provided for the investment of money in the fund and reports and audits required on the activity of the fund.

**15**     **Existing Provision (Not yet proclaimed)**

**24(1)** The Saskatchewan Technology Fund Corp. is established as a not-for-profit corporation without share capital.

(2) The Fund shall not seek status as a charity pursuant to the *Income Tax Act* (Canada), nor carry on activities that would be considered as making it a charity pursuant to the *Income Tax Act* (Canada).

2010, c.M-2.01, s.24.

**25** The purposes of the Fund are:

- (a) to manage carbon compliance payments from regulated emitters and any other moneys that the Fund is authorized to hold pursuant to this Act or the regulations;
- (b) to issue receipts to:
  - (i) a regulated emitter for carbon compliance payments made to the Fund by the regulated emitter; and
  - (ii) any other person that makes a payment to the Fund;
- (c) to promote the development of climate change programs and procedures by and among regulated emitters that, in the opinion of the Fund, will assist in achieving the Saskatchewan Initiatives and will result in regulated emitters reducing their greenhouse gas emissions in Saskatchewan; and
- (d) to support the work of the other corporations established pursuant to this Part.

2010, c.M-2.01, s.25.

**26** The Fund may:

- (a) issue receipts to:
  - (i) a regulated emitter for carbon compliance payments made to the Fund by the regulated emitter; and
  - (ii) any other person that makes a payment to the Fund;
- (b) invest any of its moneys that it does not immediately require for its purposes in any securities authorized for the investment of moneys in the general revenue fund and dispose of those investments and reinvest the proceeds in similar investments;
- (c) subject to this Act, the regulations and its bylaws, provide financial assistance by way of a grant, investment or any other similar means to regulated emitters to assist in activities related to any of the following:
  - (i) carbon capture and sequestration;
  - (ii) energy conservation;
  - (iii) low-emitting technologies and processes;
  - (iv) reductions of greenhouse gas emissions;
- (d) pay to the other corporations established pursuant to this Part any moneys that the Fund may determine and that are not otherwise required by the Fund for its

purposes;

(e) establish bylaws that are consistent with its purposes, this Act and the regulations; and

(f) do all those things that the Fund considers necessary, incidental or conducive to the carrying out of its purposes.

2010, c.M-2.01, s.26.

**27(1)** Without limiting the generality of its powers provided in section 26, the Fund may provide financial assistance to a regulated emitter in accordance with this section for the purpose of assisting the regulated emitter to reduce its greenhouse gas emissions.

(2) A regulated emitter that intends to obtain financial assistance from the Fund for the purpose of reducing the regulated emitter's greenhouse gas emissions may apply to the Fund.

(3) An application pursuant to subsection (2) must:

(a) propose a plan that will reduce the applicant's greenhouse gas emissions in a manner that the Fund considers reasonable and achievable; and

(b) be in a form acceptable to the Fund and contain any information that the Fund may require.

(4) In considering whether or not to approve an application pursuant to this section, the Fund shall consider the following:

(a) the impact that the proposed plan by the regulated emitter may have or has had on climate change and the reduction of greenhouse gas emissions in Saskatchewan;

(b) the impact of the proposed plan on the greenhouse gas emissions of the regulated emitter;

(c) the proposed cost incurred or to be incurred for the proposed plan;

(d) the record of the regulated emitter in achieving other initiatives respecting reductions of greenhouse gas emissions and complying with this Act, the regulations and the code;

(e) the evidence, scientific or otherwise, that supports the proposed plan;

(f) any prescribed terms, conditions, restrictions and parameters;

(g) any terms, conditions, restrictions and parameters established by the Fund;

(h) any other matters that the Fund considers appropriate.

(5) After considering an application pursuant to this section, the Fund may:

(a) if the Fund is satisfied that the application complies with this section and that it is appropriate to do so, approve the application; or

(b) refuse to approve the application.

(6) When approving an application or at any time after the approval, the Fund may impose any terms and conditions on the payment of financial assistance that the Fund considers



appropriate, including terms and conditions:

- (a) establishing timelines to achieve the matters dealt with in the proposed plan;
- (b) specifying how payment of financial assistance is to be made to the regulated emitter; and
- (c) specifying how the regulated emitter shall carry out the proposed plan and how that carrying out is to be monitored and measured.

2010, c.M-2.01, s.27.

**28** The membership of the Fund consists of not more than 11 persons appointed by the Lieutenant Governor in Council.

2010, c.M-2.01, s.28.

**29(1)** The board of directors of the Fund consists of those persons who are appointed to constitute the Fund pursuant to section 28.

- (2) Subject to subsections (3) to (5), a person appointed pursuant to section 28:
  - (a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and
  - (b) is eligible for reappointment.
- (3) No member of the board of directors shall hold office for more than two consecutive terms.
- (4) If a member of the board of directors dies or resigns, the person ceases to be a member of the board on the date of death or on the date on which the resignation is received by the board, as the case may be.
- (5) If the office of a person appointed pursuant to section 28 becomes vacant, the Lieutenant Governor in Council may:
  - (a) appoint a person for the remainder of the term of the person who vacated the office; or
  - (b) appoint a person for the term mentioned in subsection (2).
- (6) A vacancy in the membership of the board of directors does not impair the power of the remaining members of the board to act.
- (7) Subsections (3) and (5) do not apply to the minister if the minister is appointed as a member of the Fund pursuant to section 28.
- (8) Notwithstanding anything in *The Legislative Assembly and Executive Council Act, 2007*, if a member of the Legislative Assembly is appointed as a member of the Fund, he or she shall not, by reason of the appointment or of any payment to him or her pursuant to this Act, vacate his or her seat or be disqualified from sitting or voting in the Legislative Assembly.

2010, c.M-2.01, s.29.

**30(1)** The Lieutenant Governor in Council shall designate one member of the board of directors of the Fund as chairperson of the board and may designate another member of the board as vice-chairperson of the board.

(2) The chairperson shall:

- (a) preside over all meetings of the board of directors; and
- (b) perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by resolution of the board.

(3) In the absence of the chairperson, the vice-chairperson may exercise the powers of the chairperson and shall perform the duties of the chairperson.

2010, c.M-2.01, s.30.

**31** The Fund is not an agent of the Crown.

2010, c.M-2.01, s.31.

**32(1)** The Saskatchewan Climate Research and Development Corp. is established as a not-for-profit corporation without share capital.

(2) The Research Corporation shall not seek status as a charity pursuant to the *Income Tax Act* (Canada), nor carry on activities that would be considered as making it a charity pursuant to the *Income Tax Act* (Canada).

2010, c.M-2.01, s.32.

**33(1)** The purposes of the Research Corporation are:

- (a) to carry on activities that further and promote scientific research and experimental development in Canada in matters relating to climate change, adaptation to climate change and reduction of greenhouse gas emissions;
- (b) to provide financial assistance to further and promote scientific research and experimental development in Canada in matters relating to climate change, adaptation to climate change and reductions of greenhouse gas emissions; and
- (c) to provide financial assistance to universities, colleges, research institutes or similar institutions for scientific research and experimental development in Canada in matters relating to climate change, adaptation to climate change and reductions of greenhouse gas emissions.

(2) The Research Corporation shall engage in or support scientific research and experimental development in a manner consistent with the *Income Tax Act* (Canada).

2010, c.M-2.01, s.33.

**34** The Research Corporation may:

- (a) invest any of its moneys that it does not immediately require for its purposes in any securities authorized for the investment of moneys in the general revenue fund and dispose of those investments and reinvest the proceeds in similar investments;
- (b) subject to the terms of this Act, the regulations and its bylaws, provide financial assistance by way of a loan, grant, investment or any other similar means, respecting

activities that relate to the purposes of the Research Corporation;

(c) establish bylaws that are consistent with its purposes, this Act and the regulations; and

(d) do all those things that it considers necessary, incidental or conducive to the carrying out of its purposes.

2010, c.M-2.01, s.34.

**35** The membership of the Research Corporation consists of not more than 11 persons appointed by the Lieutenant Governor in Council.

2010, c.M-2.01, s.35.

**36(1)** The board of directors of the Research Corporation consists of those persons who are appointed to constitute the Research Corporation pursuant to section 35.

(2) Subject to subsections (3) to (5), a person appointed pursuant to section 35:

(a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and

(b) is eligible for reappointment.

(3) No member of the board of directors shall hold office for more than two consecutive terms.

(4) If a member of the board of directors dies or resigns, the person ceases to be a member of the board on the date of death or on the date on which the resignation is received by the board, as the case may be.

(5) If the office of a person appointed pursuant to section 35 becomes vacant, the Lieutenant Governor in Council may:

(a) appoint a person for the remainder of the term of the person who vacated the office; or

(b) appoint a person for the term mentioned in subsection (2).

(6) A vacancy in the membership of the board of directors does not impair the power of the remaining members of the board to act.

(7) Subsections (3) and (5) do not apply to the minister if the minister is appointed as a member of the Research Corporation pursuant to section 35.

(8) Notwithstanding anything in *The Legislative Assembly and Executive Council Act, 2007*, if a member of the Legislative Assembly is appointed as a member of the Research Corporation, he or she shall not, by reason of the appointment or of any payment to him or her pursuant to this Act, vacate his or her seat or be disqualified from sitting or voting in the Legislative Assembly.

2010, c.M-2.01, s.36.

**37(1)** The Lieutenant Governor in Council shall designate one member of the board of directors of the Research Corporation as chairperson of the board and may designate another member of the board as vice-chairperson of the board.

(2) The chairperson shall:

- (a) preside over all meetings of the board of directors; and
- (b) perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by resolution of the board.

(3) In the absence of the chairperson, the vice-chairperson may exercise the powers of the chairperson and shall perform the duties of the chairperson.

2010, c.M-2.01, s.37.

**38** The Research Corporation is not an agent of the Crown.

2010, c.M-2.01, s.38.

**39(1)** The Saskatchewan Climate Change Foundation is established as a not-for-profit corporation without share capital.

(2) The Foundation shall conduct itself in furthering its purposes in a manner consistent with those of a charitable foundation within the meaning of the *Income Tax Act* (Canada).

2010, c.M-2.01, s.39.

**40** The purposes of the Foundation are:

(a) to promote, coordinate, facilitate or otherwise assist in any effort, endeavour, undertaking, activity, program, enterprise or plan that deals with matters related to:

- (i) climate change and adaptation to climate change;
- (ii) reductions of greenhouse gas emissions; or
- (iii) other environmental issues, including pollution, environmental sustainability, environmental remediation and environmental preservation;

(b) to promote, coordinate, facilitate or otherwise assist in any effort, endeavour, undertaking, activity, program, enterprise or plan that enhances and promotes education, awareness and demonstration respecting greenhouse gas emissions, climate change and adaptation to climate change; and

(c) to provide financial assistance to qualified donees that are active in, have programs that address or deal with or are otherwise engaged in activities that:

- (i) relate to climate change, adaptation to climate change, greenhouse gas emissions and reductions of greenhouse gas emissions or environmental initiatives; and
- (ii) meet the criteria and qualifications determined by this Act, the regulations and its bylaws.

2010, c.M-2.01, s.40.

**41** The Foundation may:

- (a) carry on its purposes as a charitable corporation;
- (b) make donations and otherwise provide financial assistance by way of a loan, grant, investment or any other similar means to qualified donees, as it considers appropriate in accordance with this Act, the regulations and its bylaws;
- (c) invest any of its moneys that it does not immediately require for its purposes in any securities authorized for the investment of moneys in the general revenue fund and dispose of those investments and reinvest the proceeds in similar investments;
- (d) establish bylaws that are consistent with its purposes, this Act and the regulations; and
- (e) do all those things that it considers necessary, incidental or conducive to the carrying out of its purposes.

2010, c.M-2.01, s.41.

**42** The membership of the Foundation consists of not more than 11 persons appointed by the Lieutenant Governor in Council.

2010, c.M-2.01, s.42.

**43(1)** The board of directors of the Foundation consists of those persons who are appointed to constitute the Foundation pursuant to section 42.

(2) Subject to subsections (3) to (5), a person appointed pursuant to section 42:

- (a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and
- (b) is eligible for reappointment.

(3) No member of the board of directors shall hold office for more than two consecutive terms.

(4) If a member of the board of directors dies or resigns, the person ceases to be a member of the board on the date of death or on the date on which the resignation is received by the board, as the case may be.

(5) If the office of a person appointed pursuant to section 42 becomes vacant, the Lieutenant Governor in Council may:

- (a) appoint a person for the remainder of the term of the person who vacated the office; or
- (b) appoint a person for the term mentioned in subsection (2).

(6) A vacancy in the membership of the board of directors does not impair the power of the remaining members of the board to act.

(7) Subsections (3) and (5) do not apply to the minister if the minister is appointed as a member of the Foundation pursuant to section 42.

(8) Notwithstanding anything in *The Legislative Assembly and Executive Council Act, 2007*, if a member of the Legislative Assembly is appointed as a member of the Foundation, he or

she shall not, by reason of the appointment or of any payment to him or her pursuant to this Act, vacate his or her seat or be disqualified from sitting or voting in the Legislative Assembly.

2010, c.M-2.01, s.43.

**44(1)** The Lieutenant Governor in Council shall designate one member of the board of directors of the Foundation as chairperson of the board and may designate another member of the board as vice-chairperson of the board.

(2) The chairperson shall:

- (a) preside over all meetings of the board of directors; and
- (b) perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by resolution of the board.

(3) In the absence of the chairperson, the vice-chairperson may exercise the powers of the chairperson and shall perform the duties of the chairperson.

2010, c.M-2.01, s.44.

**45** The Foundation is not an agent of the Crown.

2010, c.M-2.01, s.45.

**46(1)** The Saskatchewan Environment Corporation is established as a not-for-profit corporation without share capital.

(2) The Environment Corporation shall not seek status as a charity pursuant to the *Income Tax Act* (Canada), nor carry on activities that would be considered as making it a charity pursuant to the *Income Tax Act* (Canada).

2010, c.M-2.01, s.46.

**47** The purposes of the Environment Corporation are:

- (a) to provide financial assistance to any person by way of a loan, grant or investment, and any other similar means, respecting activities related to any of the following:
  - (i) carbon capture and sequestration;
  - (ii) energy conservation;
  - (iii) low-emitting technologies and processes;
  - (iv) adaptation to climate change;
  - (v) biodiversity and water conservation;
  - (vi) education and public awareness programs related to climate change and adaptation to climate change;
- (b) to promote, coordinate, facilitate or otherwise assist in any effort, endeavour, undertaking, activity, program, enterprise or plan that deals with matters mentioned in clause (a); and
- (c) to promote education, awareness and demonstration respecting greenhouse

gas emissions, climate change and adaptation to climate change.

2010, c.M-2.01, s.47.

**48** The Environment Corporation may:

- (a) subject to this Act, the regulations and its bylaws, provide financial assistance by way of a loan, grant, investment or any other similar means to an accepted applicant;
- (b) invest any of its moneys that it does not immediately require for its purposes in any securities authorized for the investment of moneys in the general revenue fund and dispose of those investments and reinvest the proceeds in similar investments;
- (c) establish bylaws that are consistent with its purposes, this Act and the regulations; and
- (d) do all those things that it considers necessary, incidental or conducive to the carrying out of its purposes.

2010, c.M-2.01, s.48.

**49** The membership of the Environment Corporation consists of not more than 11 persons appointed by the Lieutenant Governor in Council.

2010, c.M-2.01, s.49.

**50(1)** The board of directors of the Environment Corporation consists of those persons who are appointed to constitute the Environment Corporation pursuant to section 49.

(2) Subject to subsections (3) to (5), a person appointed pursuant to section 49:

- (a) holds office at pleasure for a period not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and
- (b) is eligible for reappointment.

(3) No member of the board of directors shall hold office for more than two consecutive terms.

(4) If a member of the board of directors dies or resigns, the person ceases to be a member of the board on the date of death or on the date on which the resignation is received by the board, as the case may be.

(5) If the office of a person appointed pursuant to section 49 becomes vacant, the Lieutenant Governor in Council may:

- (a) appoint a person for the remainder of the term of the person who vacated the office; or
- (b) appoint a person for the term mentioned in subsection (2).

(6) A vacancy in the membership of the board of directors does not impair the power of the remaining members of the board to act.

(7) Subsections (3) and (5) do not apply to the minister if the minister is appointed as a member of the Environment Corporation pursuant to section 49.

(8) Notwithstanding anything in *The Legislative Assembly and Executive Council Act, 2007*, if a member of the Legislative Assembly is appointed as a member of the Environment

Corporation, he or she shall not, by reason of the appointment or of any payment to him or her pursuant to this Act, vacate his or her seat or be disqualified from sitting or voting in the Legislative Assembly.

2010, c.M-2.01, s.50.

**51(1)** The Lieutenant Governor in Council shall designate one member of the board of directors of the Environment Corporation as chairperson of the board and may designate another member of the board as vice-chairperson of the board.

(2) The chairperson shall:

- (a) preside over all meetings of the board of directors; and
- (b) perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by resolution of the board.

(3) In the absence of the chairperson, the vice-chairperson may exercise the powers of the chairperson and shall perform the duties of the chairperson.

2010, c.M-2.01, s.51.

**52** The Environment Corporation is not an agent of the Crown.

2010, c.M-2.01, s.52.

**53** In this Division and in section 84, “**special non-profit corporation**” means:

- (a) the Fund;
- (b) the Research Corporation;
- (c) the Foundation; or
- (d) the Environment Corporation.

2010, c.M-2.01, s.53.

**54(1)** The prescribed provisions of *The Non-profit Corporations Act, 1995* apply or do not apply to the special non-profit corporations in the prescribed manner.

(2) If there is any conflict between this Act and the regulations and any provision of *The Non-profit Corporations Act, 1995*, this Act and regulations prevail.

(3) The prescribed provisions of *The Non-Profit Corporations Act, 1995* that apply to the special non-profit corporations must be interpreted and applied in a manner consistent with this Act and the regulations, and those provisions must be read with all required changes necessary to apply those provisions for the purposes of this Act and the regulations.

2010, c.M-2.01, s.54.

**55** The head office of a special non-profit corporation is to be at any location in Saskatchewan that the Lieutenant Governor in Council may designate.

2010, c.M-2.01, s.55.

**56** In addition to any other powers provided pursuant to this Act, each special non-profit corporation may:



- (a) enter into agreements with any person, government, agency, organization, association, institution or body;
- (b) set the amount of, and charge, a fee for any service it provides;
- (c) purchase, lease or otherwise acquire any personal property;
- (d) lease real property;
- (e) sell, lease or otherwise dispose of any of its property;
- (f) accept grants, donations, gifts and bequests of any property and, subject to the terms of the grant, donation, gift or bequest, sell or otherwise dispose of that property;
- (g) in the case of the Research Corporation, the Foundation and the Environment Corporation, accept moneys from the Fund; and
- (h) accept moneys appropriated by the Legislature or the Parliament of Canada.

2010, c.M-2.01, s.56.

**57** The minister may require a special non-profit corporation to prepare any reports or provide information on its activities in any form and within any time specified by the minister.

2010, c.M-2.01, s.57.

**58** The fiscal year of a special non-profit corporation is the period commencing on April 1 in one year and ending on March 31 of the following year.

2010, c.M-2.01, s.58.

**59** The Provincial Auditor, or any other auditor or firm of auditors that the Lieutenant Governor in Council may appoint, shall audit the accounts and financial statements of each special non-profit corporation:

- (a) annually; and
- (b) at any other times that the Lieutenant Governor in Council may require.

2010, c.M-2.01, s.59.

**60(1)** Each special non-profit corporation shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister:

- (a) a report on the activities of the special non-profit corporation for the preceding fiscal year; and
- (b) a financial statement showing the financial position of the special non-profit corporation for the preceding fiscal year in any form that may be required by the minister.

(2) The minister shall, in accordance with *The Tabling of Documents Act, 1991*, lay before the Legislative Assembly each report and statement received by the minister pursuant to this section.

2010, c.M-2.01, s.60; 2014, c.E-13.1, s.62.

### **Explanation**

The amendment repeals existing provisions regarding the provincial technology fund, as they created an overly complex administrative structure. The new provisions related to the technology fund will streamline its administration, allowing for the majority of monies held within the fund to be dedicated to beneficial projects that address greenhouse gas emissions, rather than overhead costs.

The remainder of the amendments repeal provisions establishing various corporations and foundations to administer aspects of Saskatchewan's approach to climate change. The mechanism of relying on these corporations and foundations is no longer in alignment with Saskatchewan's approach to climate change. Similarly, the provisions regarding non-profit corporations are repealed, as the Act will no longer make reference to any such organizations.

### **16 Existing Provision**

**61(1)** Subject to subsection (4), all information, data, test results, reports, returns and records and responses to a direction of the minister submitted to the minister pursuant to this Act, the regulations or the code are deemed to be public information.

(2) The minister may disclose to the public any information, data, test result, report, return or record or response to a direction of the minister mentioned in subsection (1) at any time and in any manner that the minister considers appropriate, including posting the information, data, test result, report, return, record or response on the ministry's Internet website.

(3) Subject to the regulations, a person who submits any information, data, test result, report, return or record or responds to a direction of the minister pursuant to this Act may request in writing that all or any part of the information, data, test result, report, return or record or response be kept confidential for a period of up to five years after the date of submission on the basis that the information, data, test result, report, return, record or response contains matters that:

- (a) are of a commercial, financial, scientific or technical nature; and
- (b) would reveal proprietary business, competitive or trade secret information about that person's business.

(4) A request made pursuant to subsection (3) is to be dealt with in the prescribed manner.

2010, c.M-2.01, s.61.

### **Explanation**

The amendment expands upon the process that will occur if a person requests that submitted documents be kept confidential, rather than placing these details in regulations as would occur under the existing provision. The amendment also includes applications in the list of submissions that may be made public. This amendment is consistent with *The Environmental Management and Protection Act, 2010*.

**17**      **Existing Provision**

**66(1)** Prescribed persons, or members of prescribed classes of persons, who are engaged in any prescribed commercial or other activity in Saskatchewan that results in greenhouse gas emissions and who are not regulated emitters shall:

- (a) calculate the greenhouse gas emissions of that activity in the manner directed by the minister;
- (b) conduct tests to determine greenhouse gas emissions as directed by the minister; and
- (c) file reports with the minister containing information specified by the minister.

(2) With respect to any report filed pursuant to subsection (1), the minister may require that the report or any information mentioned in clauses (a) and (b) be verified by a qualified person.

2010, c.M-2.01, s.66.

**Explanation**

The amendment repeals the existing provision. This provision related to section 22 of the existing Act, which regarded the reduction of greenhouse gas emissions by non-regulated emitters. As described under section 13 of the Amendment Act, section 22 of the existing Act is repealed, as any facility required to reduce greenhouse gas emissions would be considered a regulated emitter for the purposes of the Act. As section 22 is to be repealed, so is this related provision.

**18**      **Existing Provision**

**67(1)** An environment officer may conduct an audit or inspection in accordance with this section.

(2) An audit may be conducted on any person who engages in an activity that is governed by this Act, the regulations or the code.

(3) An audit conducted pursuant to this section must contain:

- (a) an assessment of how well the person mentioned in subsection (2) has complied with this Act, the regulations or the code; and
- (b) if the obligations imposed by this Act, the regulations or the code have not been met, an explanation for the differences between the results and those obligations, terms and conditions.

(4) Subject to subsection 70(4), for any purpose relating to the administration or enforcement of this Act, an enforcement officer may do any of the following:

- (a) enter at any reasonable time and inspect any commercial premises used by a regulated emitter or any other person who the enforcement officer has reasonable grounds to believe has records of a regulated emitter or any other person who engages in an activity that is governed by this Act, the regulations or the code;

- (b) enter at any reasonable time and inspect any place, including any premises or vehicle, in which the enforcement officer has reasonable grounds to believe that:
    - (i) there is anything to which this Act applies;
    - (ii) any activity to which this Act applies has been carried on, is being carried on or is likely to be carried on; or
    - (iii) there are records that are required to be kept pursuant to this Act or that relate to the administration of this Act;
  - (c) require the owner or any person in possession of a place, including any premises or vehicle, being inspected pursuant to this section and any agent, representative, partner, director or employee of the owner or person, to:
    - (i) answer any questions that may be relevant to the administration or enforcement of this Act; and
    - (ii) provide the enforcement officer with all reasonable assistance;
  - (d) for the purposes of clause (c), require any of the persons mentioned in that clause to attend at a place and time set by the enforcement officer;
  - (e) require any of the persons mentioned in clause (c) to produce:
    - (i) anything to which this Act applies; or
    - (ii) any records that:
      - (A) are required to be kept pursuant to this Act or that relate to the administration of this Act; and
      - (B) the enforcement officer reasonably requires;
  - (f) inspect anything to which this Act applies or any record that is required to be kept pursuant to this Act or that relates to the administration of this Act.
- (5) If the enforcement officer requires any records to be produced pursuant to this section, the enforcement officer may examine the records and make copies of the records in accordance with section 71.
- (6) For the purposes of producing a readable record from a computer system or other data storage, processing or retrieval device belonging to or used by a person who is required to produce any records pursuant to this section, the enforcement officer may use that computer system, including the computer hardware or software, or other data storage, processing or retrieval device.
- (7) If an enforcement officer is unable to produce a readable record from a computer system or other data storage, processing or retrieval device belonging to or used by a person who is required to produce any records pursuant to this section, the enforcement officer may, after giving a receipt:
- (a) remove any computer hardware and software and any other data storage, processing or retrieval device required to produce a readable record;
  - (b) produce that record with reasonable dispatch; and
  - (c) promptly return the computer hardware and software and any other data storage, processing or retrieval device to:

- (i) the place from which they were removed; or
- (ii) any other place that may be agreed to by the enforcement officer and the person from whom they were taken.

2010, c.M-2.01, s.67.

**68** In addition to the powers mentioned in section 67, in carrying out an inspection pursuant to this Act, an enforcement officer may do all or any of the following:

- (a) open or cause to be opened any container found in the place that the enforcement officer believes on reasonable grounds contains anything to which this Act applies;
- (b) take samples of anything to which this Act applies;
- (c) conduct any tests or analyses and take any measurements.

2010, c.M-2.01, s.68.

**69(1)** No person shall fail to answer questions or to provide reasonable assistance in accordance with section 67 or 68 in the manner and within the period specified by the enforcement officer.

(2) No person shall fail to produce any records or thing to which this Act applies in accordance with section 67 or 68 within the period reasonably required by the enforcement officer.

2010, c.M-2.01, s.69.

**70(1)** If a justice or provincial court judge is satisfied by information on the oath of an enforcement officer that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found, the justice or provincial court judge may issue a warrant to do all or any of the following:

- (a) enter and search any place, including any premises or vehicle, named or described in the warrant;
- (b) seize and remove anything that may be evidence of an offence against this Act.

(2) With a warrant issued pursuant to subsection (1), an enforcement officer may do all or any of the following:

- (a) enter at any time and search any place, including any premises or vehicle, named or described in the warrant;
- (b) open and examine anything that the enforcement officer finds in the place, premises or vehicle;
- (c) require the production of and examine any records or other things to which this Act applies that the enforcement officer has reasonable grounds to believe may contain information related to an offence against this Act;
- (d) remove, for the purpose of making copies, any records examined pursuant to this section and any computer hardware and software and any other data storage,

processing or retrieval device required to produce a readable record;

(e) do any of the things mentioned in clauses 68(b) and (c);

(f) do any of the things mentioned in section 72.

(3) Subject to subsection (4), an enforcement officer may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:

(a) the conditions for obtaining a warrant exist; and

(b) the enforcement officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result:

(i) in danger to human life or safety; or

(ii) in the loss, removal or destruction of evidence.

(4) No enforcement officer shall enter premises that are ordinarily occupied as a private residence without a warrant issued pursuant to this section unless the occupant of those premises consents to the entry.

(5) If, pursuant to this section, an enforcement officer removes any computer hardware and software and any other data storage, processing or retrieval device required to produce a readable record, the enforcement officer shall:

(a) produce that record with reasonable dispatch; and

(b) promptly return the computer hardware and software and any other data storage, processing or retrieval device to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the enforcement officer and the person from whom they were taken.

2010, c.M-2.01, s.70.

**71(1)** If any records are inspected, examined, removed, produced or provided pursuant to section 67 or 70, an enforcement officer may make copies of those records.

(2) An enforcement officer shall:

(a) make those copies with reasonable dispatch; and

(b) promptly return the originals of the records to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the enforcement officer and the person who furnished them or from whom they were taken.

(3) If the originals of any record are to be removed from a place, the enforcement officer shall take all reasonable steps to ensure that a copy of the record is left at the place to allow business to be carried on.

(4) A document certified by the minister, an enforcement officer or any person authorized by the minister to be a copy of a record made pursuant to this section:

- (a) is admissible in evidence without proof of the office or signature of that person; and
- (b) has the same probative force as the original record.

2010, c.M-2.01, s.71.

**72(1)** In addition to the powers mentioned in sections 67, 68 and 70, in conducting an inspection pursuant to section 67 or 68 or in carrying out an investigation pursuant to section 70, an enforcement officer may seize anything to which this Act applies that the enforcement officer has reasonable grounds to believe is required for the purposes of determining compliance or non-compliance with this Act, the regulations or the code.

(2) Anything to which this Act applies that is seized pursuant to subsection (1) may be removed to any place that the enforcement officer considers appropriate for the preservation and containment of the thing to which this Act applies.

(3) If an enforcement officer has custody of anything to which this Act applies that is seized pursuant to this Act and is perishable or susceptible to deterioration, the minister, the ministry or the enforcement officer may dispose of it, in whole or in part, in any manner approved by the minister, and any proceeds realized from the disposition are to be dealt with in the prescribed manner.

2010, c.M-2.01, s.72.

**73** No person shall resist, obstruct, hinder, delay or interfere with an enforcement officer, or a person aiding an enforcement officer, in the performance of the enforcement officer's duties.

2010, c.M-2.01, s.73.

**74(1)** An enforcement officer and any person lawfully accompanying the enforcement officer may, for the purposes of carrying out his or her duties, enter on or pass over any land, whether enclosed or not.

(2) Notwithstanding anything in *The Expropriation Procedure Act*, the minister or any person designated by the minister may enter on any land for the purposes of:

- (a) securing data and obtaining information respecting greenhouse gas emissions, climate change and adaptation to climate change; and
- (b) inspecting any works related to greenhouse gas emissions, climate change and adaptation to climate change.

2010, c.M-2.01, s.74.

### **Explanation**

The amendment is to modify any reference to “enforcement officer” to “environment officer” consisted with section 6 of the Amendment Act.

**19(1) Existing Provision**

**75(1)** No person shall:

- (a) make a false statement or provide false information to the minister, an enforcement officer, the ministry or any person acting on behalf of the minister;
- (b) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister, an enforcement officer, the ministry or any person acting on behalf of the minister;
- (c) fail to comply with an order of the minister issued pursuant to this Act, the regulations or the code; or
- (d) fail to comply with any provision of this Act, the regulations or the code.

2010, c.M-2.01, s.75.

**Explanation**

The amendment modified any reference of “enforcement officer” to “environment officer” consistent with section 6 of the Amendment Act. The amendment also includes “terms and conditions imposed by the minister” as a requirement that must be complied with.

**19(2) Existing Provision**

**75(4)** In addition to any penalty imposed pursuant to this Act, the convicting court, having regard to the nature of the offence and the circumstances surrounding its commission, may make an order doing one or more of the following:

- (a) prohibiting the convicted person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence;
- (b) directing the convicted person to repair any damage to the environment that resulted from the commission of the offence in a manner and within the period specified by the order;
- (c) requiring the convicted person to take steps to prevent any damage to the environment that may result from the commission of the offence in a manner and within the period specified by the order;
- (d) directing the convicted person to pay to the minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventative action taken by or at the direction of the minister as a result of the commission of the offence;
- (e) in the case of a convicted person that is a regulated emitter required by this Act or the regulations to make a carbon compliance payment to the Fund, directing that the convicted person pay to the minister any amount that ought to have been paid by that convicted person to the Fund as a carbon compliance payment and any interest



outstanding pursuant to this Act or the regulations; **(Not yet proclaimed)**

(f) requiring the convicted person to do any other thing that, in the opinion of the court, is necessary in the circumstances.

### **Explanation**

The amendments to clauses (b) and (c) provide more specificity to the requirements that a convicted person must comply with. The vague “any damage to the environment” is replaced with a requirement to reduce or limit emissions of greenhouse gases, which is more consistent with the scope of the Act. The amendment to clause (e) removes reference to a carbon compliance payment, which is an outdated approach to regulating greenhouse gas emissions that is repealed from this Act according to section 11 of the Amendment Act. This language is replaced with a reference to compliance obligations, which is the mechanism introduced to regulate greenhouse gas emissions according to section 8 of the Amendment Act. In the circumstance that a convicted person has an unfulfilled compliance obligation, the amendment only allows payment into the technology fund as the sole compliance option left available to the convicted person.

### **19(3) Existing Provision (Not yet proclaimed)**

**75(5)** If any amount is paid to the minister pursuant to clause (4)(e), the minister shall pay that amount to the Fund.

2010, c.M-2.01, s.75.

### **Explanation**

The amendment described in section 19(2) of the Amendment Act already directs payments made by convicted persons to the technology fund, rendering this provision redundant.

### **19(4) Existing Provision (Not yet proclaimed)**

**75(6)** Any amount paid to the Fund pursuant to subsection(5):

- (a) with respect to any amount that ought to have been paid to the Fund as a carbon compliance payment, is to be applied to reduce the outstanding amount of the carbon compliance payment remaining unpaid by the convicted person; and
- (b) with respect to interest outstanding that ought to have been paid to the Fund as an interest penalty, is to be applied to reduce the outstanding amount of the interest penalty remaining unpaid by the convicted person.

2010, c.M-2.01, s.75.

### **Explanation**

The amendment updates the reference to the correct subsection and modifies any reference to carbon compliance payments to compliance obligations, consistent with previous amendments.

**20** **Existing Provision (Not yet proclaimed)**

**77** No prosecution for a contravention of this Act, the regulations or the code is to be commenced more than two years after the facts on which the alleged contravention is based first came to the knowledge of the co-ordinator of the Office of Climate Change.

2010, c.M-2.01, s.77.

**Explanation**

The limitation period on prosecutions is standard as legislated in *The Interpretation Act, 1995*. It is therefore not necessary to include this provision within the Act.

**21(1)** **Existing Provision**

**78(1)** Subject to the regulations, the minister may assess a prescribed penalty against any regulated emitter, qualified person or any other prescribed person if:

- (a) that regulated emitter, qualified person or other prescribed person has contravened any prescribed provision of this Act, the regulations or the code; or
- (b) in the case of a regulated emitter, has failed to make a carbon compliance payment to the Fund as required by this Act or the regulations. **(Not yet proclaimed)**

2010, c.M-2.01, s.78.

**Explanation**

Clause (a) of the existing provision covers “any prescribed provision of this Act”, rendering clause (b) redundant. Additionally, the term “carbon compliance payment” is no longer used within the Act. The amendment therefore repeals clause (b).

**21(2)** **Existing Provision (Not yet proclaimed)**

**78(11)** If any amount is paid to the minister as an administrative penalty with respect to non-payment of a carbon compliance payment or interest on that carbon compliance payment, the minister shall pay that amount to the Fund.

2010, c.M-2.01, s.78.

**Explanation**

The amendment replaces the reference to a “carbon compliance payment” with “compliance obligation” consistent with earlier amendments to the Act.

## 22 Existing Provision

**80** No action or other proceeding lies or shall be commenced against the minister, the ministry, any enforcement officer, any person lawfully accompanying an enforcement officer, the Crown in right of Saskatchewan or officers and employees of the Crown for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or the code or in the carrying out or supposed carrying out of any function or duty imposed by this Act, the regulations or the code.

2010, c.M-2.01, s.80.

### Explanation

The amendment includes the Advisory Committee established in section 14 of the Amendment Act within those deemed immune for the purposes of the Act. The amendment also modified references of “enforcement officer” to “environment officer” consistent with section 6 of the Amendment Act.

## 23 Existing Provision

**84(1)** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of clause 2(b), prescribing the carbon compliance price; **(Not yet proclaimed)**
- (c) for the purposes of clause 2(c), prescribing the manner for determining the CO<sub>2</sub>e amount, and the global warming potential, for each particular greenhouse gas;
- (d) for the purposes of clause 2(j), prescribing additional greenhouse gases;
- (e) for the purposes of clause 2(n), respecting offset credits, including:
  - (i) prescribing activities in Saskatchewan that may qualify as generating offset credits;
  - (ii) prescribing the manner in which offset credits may be used and the terms and conditions that must be complied with in order to use offset credits and authorizing the minister to determine the manner in which offset credits may be used and the terms and conditions that must be complied with in order to use offset credits;
  - (iii) authorizing the use of activities that occur outside of Saskatchewan that result in tonnes of CO<sub>2</sub>e as offset credits;
  - (iv) prescribing the terms and conditions that must be complied with in order to use the activities mentioned in subclause(iii); **(Not yet proclaimed)**

- (f) for the purposes of clause 2(u), prescribing regulated emitters and the requirements to determine who is a regulated emitter or a member of a class of regulated emitters;
- (g) for the purposes of clause 2(x), prescribing initiatives, targets, plans, proceedings and goals; **(Not yet proclaimed)**
- (h) for the purposes of section 5, establishing a greenhouse gas emission reduction target for Saskatchewan;
- (i) for the purposes of clause 7(2)(j), prescribing matters that the minister must consider when recognizing actions taken before the coming into force of this Act to reduce greenhouse gas emissions; **(Not yet proclaimed)**
- (j) for the purposes of clause 7(2)(k), prescribing matters that the minister must consider when determining what are pre-certified investments; **(Not yet proclaimed)**
- (k) for the purposes of clause 7(2)(l), prescribing matters that the minister must consider when determining other amounts of CO<sub>2</sub>e that regulated emitters may deduct when calculating greenhouse gas emissions for the purposes of determining the carbon compliance payment required by section 20;
- (l) for the purposes of clause 7(2)(o):
  - (i) prescribing the circumstances in which, and the purposes for which, the minister may enter into performance agreements; and
  - (ii) prescribing any matters to be included in performance agreements; **(Not yet proclaimed)**
- (m) for the purposes of clause 17(1)(b), prescribing classes of regulated emitters and the manner of establishing a baseline emission level for members of a class of regulated emitters;
- (n) for the purposes of subsection 17(2), prescribing the manner of calculating the baseline emission level, including authorizing the minister to determine the manner of calculating the baseline emission level;
- (o) for the purposes of subsection 17(3), prescribing dates, including authorizing the minister to determine dates;
- (p) for the purposes of subsection 17(10), prescribing circumstances in which the minister may direct regulated emitters to provide information and documentation, establish new baseline emission levels or amend or revise baseline emission levels for a regulated facility;
- (q) for the purposes of section 18, prescribing the amount of the reduction of CO<sub>2</sub>e from the baseline emission level for a regulated emitter and prescribing years, including:
  - (i) prescribing different classes of regulated emitters;
  - (ii) prescribing different amounts of reduction of CO<sub>2</sub>e for different classes of regulated emitters; and
  - (iii) authorizing the minister to establish the amount of the reduction of CO<sub>2</sub>e from the baseline emission level for a regulated emitter, to revise or amend the amount of reduction of CO<sub>2</sub>e that was prescribed and to establish years;

- (r) for the purposes of section 19, prescribing the dates for annual returns required from a regulated emitter and the required contents for returns;
- (s) for the purposes of section 20, prescribing a rate of interest; **(Not yet proclaimed)**
- (t) for the purposes of section 21:
  - (i) prescribing entities, electrical utilities or persons providing natural gas services or classes of entities, electrical utilities or persons providing natural gas services;
  - (ii) prescribing programs with respect to which reports must be made;
  - (iii) prescribing elements to be included in reports for the purposes of subsection (2), and, for that purpose, prescribing different elements for different entities or different classes of entities; and
  - (iv) prescribing the required information to be contained in reports;
- (u) for the purposes of section 22, prescribing persons or classes of persons who emit greenhouse gases and who are not regulated emitters who shall comply with that section; **(Not yet proclaimed)**
- (v) for the purposes of section 27, prescribing terms, conditions, restrictions and parameters for approval of applications to the Fund; **(Not yet proclaimed)**
- (w) for the purposes of section 54, prescribing provisions of *The Non-profit Corporations Act, 1995* that are to apply or that do not apply to special non-profit corporations and prescribing the manner in which provisions of *The Non-profit Corporations Act, 1995* apply to special non-profit corporations and modifying, expanding or restricting the manner in which those provisions apply; **(Not yet proclaimed)**
- (x) for the purposes of section 61:
  - (i) prescribing the manner in which a request may be made and dealt with;
  - (ii) prescribing the criteria that must be considered when deciding whether or not to keep information confidential pursuant to a request, including authorizing the minister to determine additional criteria to be considered in making that decision; and
  - (iii) establishing a right to appeal to the Court of Queen's Bench a decision made with respect to a request;
- (y) for the purposes of section 63, prescribing circumstances when the minister shall obtain the approval of the Lieutenant Governor in Council before issuing a written decision pursuant to subsection 63(5);
- (z) for the purposes of section 66:
  - (i) prescribing persons and classes of persons who shall comply with that section; and
  - (ii) prescribing activities; **(Not yet proclaimed)**
- (aa) for the purposes of subsection 72(3), respecting proceeds realized from dispositions;

- (bb) for the purposes of subsection 81(2), prescribing means of service;
- (cc) providing for and respecting the cancellation, alteration, suspension or renewal of approvals issued pursuant to this Act, the regulations or the code;
- (dd) requiring persons whose activities result in greenhouse gas emissions or who are involved in a program to mitigate the effects of climate change to keep records or make reports and prescribing the nature of those records or reports;
- (ee) respecting administrative penalties;
- (ff) with respect to any matter governed by this Act:
  - (i) adopting, as amended from time to time or otherwise, all or any part of any standard or guideline;
  - (ii) amending for the purposes of this Act, the regulations or the code any standard or guideline adopted pursuant to subclause (i);
  - (iii) requiring compliance with a standard or guideline adopted pursuant to subclause (i);
- (gg) adopting a code;
- (hh) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (ii) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2010, c.M-2.01, s.84.

### **Explanation**

The regulatory making powers of the Lieutenant Governor have been updated to reflect the amendments made throughout the Act.

The following clauses have been added to the subsection:

- Allowing for regulations to be developed pertaining to performance credits. This addition is required as performance credits will be used as a compliance option under the provincial output based performance standards;
- Allowing for considerations surrounding compliance obligations and compliance options to be determined in regulations. A compliance obligation is accrued by a facility that does not reduce its greenhouse gas emissions as required, while a compliance option is an approved mechanism by which a compliance obligation may be fulfilled;
- Enabling regulations to prescribe criteria for who may be considered a qualified person. This flexibility will allow for qualified persons to be defined differentially in regulations as appropriate;
- Enabling for the details of how a regulated emitter may be required to reduce greenhouse gas emissions to be determined in regulations. This will allow for multiple

approaches to be used towards the reduction of greenhouse gas emissions in Saskatchewan. For example, existing regulations require a reduction in emissions for the electricity sector against a baseline, while forthcoming regulations for large industrial emitters will be centered upon a reduction in emissions intensity;

- New regulatory making powers for the details of the new provincial technology fund. This replaces the regulatory powers for the previous version of the fund, which is to be repealed;
- The ability to assess a rate of interest on unpaid debts to the Crown. This would occur in the circumstance that a regulated emitter fails to satisfy a compliance obligation, at which time the obligation would be considered a debt upon which interest may be applied;
- The ability to require regulated emitters to register. This process allows the Government of Saskatchewan to provide evidence that regulated emitters are captured by a greenhouse gas emissions program; and
- The ability to prescribe environment officers as peace officers for the purposes of conducting their duties pursuant to the Act.

The following clauses have been repealed:

- Regulatory making powers for the carbon compliance price, as this term and concept has been repealed from the Act and replaced with compliance obligations;
- Regulatory making powers regarding 'Saskatchewan Initiatives', as this concept was related to the Office of Climate Change, which has been repealed from the Act;
- Regulatory making powers for early action, pre-certified investments, and performance agreements, as these considerations were taken into account during the development of output based performance standards for large emitters and therefore have been repealed from the Act;
- Regulatory making powers regarding reduction of greenhouse gas emissions according to section 18 of the existing Act. Section 18 is repealed from the Act, as it speaks to a specific reduction scenario which is accounted for by general provisions elsewhere in the Amended Act (see section 9 of the Amendment Act);
- Reference to the rate of interest in section 20 of the existing Act is repealed, as section 20 is to be repealed;
- Regulatory making powers regarding requirements for non-regulated emitters. Any facility that is required to take action pursuant to this Act will be considered a regulated emitter, and as such all sections referring to non-regulated emitters have been repealed;
- Regulatory making powers for the previous technology fund, as that will be repealed and has been replaced with a new approach to a technology fund; and
- Regulatory making powers for non-profit organizations, as all non-profits have been repealed from the Act.

The following clauses have been amended:

- The language regarding offset credits was amended to remove explicit reference to activities outside of Saskatchewan. While these activities may still be considered for offset credits, this consideration will now occur in regulations;
- Allowing for the means by which returns may be submitted to the minister to be determined in regulations. This would enable consideration of using alternative options than direct reports to the minister, such as the federal single window reporting system, SWIM;
- Reference to electricity and natural gas producers are repealed, as specific mention of those types of regulated emitters are repealed throughout the Act; and
- Clarifying that regulated emitters who wish to have information submitted to the government pursuant to this Act kept confidential have the right to appeal decisions to the Court of Queen's Bench.

**24** This Act comes into force on assent.

Prepared by the Ministry of Environment