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Second Session, 29th Legislature, 65 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 20

CLIMATE LEADERSHIP IMPLEMENTATION ACT

THE MINISTER OF ENVIRONMENT AND PARKS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 20

2016

CLIMATE LEADERSHIP IMPLEMENTATION ACT

(Assented to , 2016)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

1 The *Climate Leadership Act* as set out in Schedule 1 is enacted
and may be cited as Chapter C-16.9 of the Statutes of Alberta,
2016.

2 The *Energy Efficiency Alberta Act* as set out in Schedule 2 is
enacted and may be cited as Chapter E-9.7 of the Statutes of
Alberta, 2016.

3 The following Acts are amended as set out in Schedule 3:

- (a) the *Alberta Corporate Tax Act*;
- (b) the *Alberta Personal Income Tax Act*;
- (c) the *Climate Change and Emissions Management Act*.

Schedule 1
CLIMATE LEADERSHIP
ACT

Chapter C-16.9

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Schedule

Interpretation

1(1) In this Act,

- (a) “arm’s length” means arm’s length within the meaning of section 251 of the *Income Tax Act* (Canada);
- (b) “assess” includes reassess;
- (c) “carbon levy exemption certificate” means a certificate, permit, card or other instrument issued by the Minister under section 16;
- (d) “clear fuel” means gasoline or diesel that is not marked fuel;
- (e) “consumer” means a person that produces or purchases fuel in, or imports fuel into, Alberta
 - (i) for use by that person,
 - (ii) for use by another person at the first person’s expense, or

- (iii) on behalf of, or as agent for, a principal for use by the principal or by another person at the principal's expense;
- (f) "Court" means the Court of Queen's Bench;
- (g) "Crown" means the Crown in right of Alberta;
- (h) "direct remitter" means a recipient as set out in section 25(1);
- (i) "dwelling house" means all or any part of a building or structure that is occupied as a permanent or temporary residence and includes any building that is connected to it by a doorway or by a covered or enclosed passageway;
- (j) "farming operations" means farming operations as defined in the regulations;
- (k) "fuel" means a substance set out in the Table in the Schedule;
- (l) "gas battery" means a system or arrangement of surface equipment that receives the effluent from a gas well and that provides separation, measurement, dehydration, dew point control, compression or other gas handling functions, but does not include gas processing equipment;
- (m) "gas fractionation plant" means a system or arrangement of equipment used to process gas liquids into one or more separate fuels, including, without limitation, ethane, propane, butane and pentanes plus, and includes any underground storage facilities on the same site operated by the same operator;
- (n) "gas gathering system" means a system or arrangement of pipelines, compressors, line heaters, dehydrators, measurement or other equipment used to move raw gas or natural gas from an oil battery, oil production site, gas battery, gas well or other facility to a gas battery or gas processing facility;
- (o) "gas processing facility" means a system or arrangement of equipment used at a gas plant or other facility for the extraction of substances such as hydrogen sulphide, helium, ethane or gas liquids from raw gas or natural gas,

but does not include a wellhead separator, treater or dehydrator;

- (p) “gas well” means any well, other than a well included in an oil production site, that produces raw gas or natural gas, including, without limitation,
 - (i) a well that produces raw gas or natural gas
 - (A) from a pool or portion of a pool in which the hydrocarbon system is gaseous or exhibits a dew point on reduction of pressure, or
 - (B) from coal by in situ gasification or other means,
 - (ii) a gas testing well, and
 - (iii) any well designated as a gas well under the *Oil and Gas Conservation Act*;
- (q) “interjurisdictional carrier” means an interjurisdictional carrier as defined in the regulations;
- (r) “marked fuel” means marked fuel as defined in the *Fuel Tax Act*;
- (s) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (t) “motor vehicle” means a vehicle powered by an internal combustion engine;
- (u) “natural gas distribution system” means a system, not including a transmission pipeline, by which natural gas is distributed to recipients;
- (v) “natural gas distributor” means
 - (i) a person that measures a recipient’s natural gas consumption on a regular basis for the purpose of billing the recipient directly or providing a retail dealer with the recipient’s billing information, or
 - (ii) a person prescribed as a natural gas distributor

but does not include a recipient that sells or removes natural gas that is subject to the carbon levy pursuant to section 8(3) from a transmission pipeline;

- (w) “natural gas services” means the issuing of bills to recipients, collection of amounts owing and responding to customer billing inquiries;
- (x) “officer” means an officer as defined in the regulations;
- (y) “oil” means condensate, crude oil or synthetic coal liquid or a constituent of raw gas, condensate or crude oil that is recovered in processing and that is liquid at the conditions under which its volume is measured or estimated;
- (z) “oil battery” means a system or arrangement of surface equipment that receives the effluent from one or more oil wells and provides separation, treating, measurement and other oil handling functions;
- (aa) “oil production site” means field production facilities for recovering oil or oil sands by mining, drilling or other in situ methods, including any wells or injection or pumping facilities and any associated infrastructure;
- (bb) “oil sands processing plant” means a plant for
 - (i) the recovery of crude bitumen, sand and other substances from oil sands, or
 - (ii) the extraction of crude oil, natural gas and other substances from crude bitumen;
- (cc) “owner”, except in sections 13 and 80, means the legal owner or a person in lawful possession;
- (dd) “person” includes a partnership, a trust and an Indian band;
- (ee) “possession”, except in sections 13 and 80, means
 - (i) the state of having in one’s own personal possession, or
 - (ii) the state of knowingly having in the actual possession of another person for one’s own use or benefit or the use or benefit of another person;

- (ff) “prescribed” means prescribed or otherwise provided for in the regulations;
- (gg) “purchase” means to purchase or otherwise obtain fuel with or without giving consideration;
- (hh) “rebrand” means
 - (i) to reclassify a fuel from one substance to another,
 - (ii) to change a fuel to another type of fuel,
 - (iii) to change a fuel to a substance that is not subject to the carbon levy, or
 - (iv) to change a substance that is not subject to the carbon levy to a fuel;
- (ii) “recipient” means
 - (i) a person that purchases fuel,
 - (ii) a person that produces, processes or refines fuel,
 - (iii) a person that imports fuel into Alberta for the purpose of sale or resale,
 - (iv) a person that imports fuel into Alberta that, without first having been sold or resold in Alberta, is put, in Alberta, into a fuel system that produces heat or energy,
 - (v) a person that sells or removes fuel from a refinery or terminal,
 - (vi) a person that manufactures, refines or acquires in, or imports into, Alberta not less than a total of 500 million litres of clear fuel annually,
 - (vii) a person that sells or removes fuel from a gas battery, gas gathering system or gas well,
 - (viii) a person that sells or removes fuel from a gas fractionation plant, gas processing facility or straddle plant,

- (ix) a person that sells or removes fuel from an oil battery, oil production site or oil sands processing plant,
 - (x) a person that sells or removes natural gas directly from a transmission pipeline,
 - (xi) a person that flares or vents fuel,
 - (xii) a natural gas distributor,
 - (xiii) a person that sells or removes natural gas from a natural gas distribution system,
 - (xiv) a person that sells or removes fuel from a specified gas emitter,
 - (xv) a person that rebrands fuel,
 - (xvi) a person that holds a licence issued under section 18,
 - (xvii) a person that sells fuel to which section 9 applies,
 - (xviii) a person required to pay an amount pursuant to section 13(4),
 - (xix) a person that is required by this Act to pay a carbon levy on fuel used in Alberta, or
 - (xx) any other prescribed person or member of a prescribed class of persons;
- (jj) “refinery” means a refinery as defined in the regulations;
 - (kk) “registrant” means a person registered under section 27;
 - (ll) “retail dealer” means a person that provides natural gas services to a recipient, but does not include a person that is a natural gas distributor;
 - (mm) “sell” means to sell or otherwise supply fuel with or without receiving consideration;
 - (nn) “specified gas emitter” means a specified gas emitter as defined in the regulations;

- (oo) “straddle plant” means surface equipment intended to reprocess natural gas for the purpose of recovering other fuels from the natural gas and includes any underground storage facilities on the same site operated by the same operator;
- (pp) “terminal” means a fuel distribution facility designated as a terminal by subsection (3);
- (qq) “transmission pipeline” means a pipeline used to transport natural gas from a gas battery, gas gathering system, gas processing facility, gas well or straddle plant to a natural gas distribution system, a straddle plant or export markets;
- (rr) “use” includes flaring or venting;
- (ss) “vendor” means a person that sells fuel to a consumer;
- (tt) “venting” means the intentional controlled release of uncombusted gaseous fuel.

(2) Definitions in the Schedule are applicable to the whole of this Act and to the regulations unless otherwise expressly provided.

(3) A fuel distribution facility that is designated by the Minister as a terminal for purposes of the *Fuel Tax Act* is designated as a terminal for the purposes of this Act.

Crown bound

2 This Act binds the Crown.

Purpose

3(1) The purpose of this Act is to provide for a carbon levy on consumers of fuel to be effected through a series of payment and remittance obligations that apply to persons throughout the fuel supply chains.

(2) The revenue from the carbon levy may only be used

- (a) for initiatives related to reducing emissions of greenhouse gases or supporting Alberta’s ability to adapt to climate change, or

- (b) to provide rebates or adjustments related to the carbon levy to consumers, businesses and communities, including adjustments in the form of tax credits or tax rate reductions.

Part 1 Carbon Levy on Fuel

Division 1 Imposition of Carbon Levy

Carbon levy on certain fuels

4(1) This section applies to fuel other than

- (a) locomotive diesel,
- (b) fuel to which section 8 applies,
- (c) fuel to which section 9 applies, and
- (d) fuel exempted from the application of this section by the regulations.

(2) Subject to section 11, every recipient shall pay to the Crown a carbon levy on fuel, at the rate for that type of fuel set out in the Table in the Schedule, at the time the recipient

- (a) purchases fuel,
- (b) imports fuel into Alberta for the purpose of sale or resale,
- (c) imports fuel into Alberta that, without first having been sold or resold in Alberta, is put, in Alberta, into a fuel system that produces heat or energy,
- (d) sells or removes fuel from a refinery or a terminal,
- (e) sells or removes fuel from a gas fractionation plant, gas processing facility or straddle plant,
- (f) sells or removes fuel from a gas battery, gas gathering system or gas well,
- (g) sells or removes fuel from an oil battery, oil production site or oil sands processing plant,

- (h) sells or removes fuel from a specified gas emitter,
- (i) sells fuel, if the recipient is the holder of a licence issued under section 18,
- (j) flares or vents fuel, or
- (k) engages in a prescribed activity.

(3) Notwithstanding subsection (2), no carbon levy is payable under this section

- (a) at the time
 - (i) fuel is imported into Alberta for delivery to a refinery or terminal,
 - (ii) fuel is purchased by a recipient that
 - (A) operates a refinery, or
 - (B) manufactures, refines or acquires in, or imports into, Alberta not less than a total of 500 million litres of clear fuel annuallyfrom a recipient described in paragraph (A) or (B) for delivery to a refinery or terminal,
 - (iii) fuel is exported from Alberta in bulk,
 - (iv) fuel is purchased exempt from the carbon levy under section 15,
 - (v) fuel is moved from a gas battery, gas gathering system or gas well to a gas battery, gas gathering system, gas fractionation plant, gas processing facility or straddle plant,
 - (vi) fuel is moved from an oil battery, oil production site or oil sands processing plant to a gas fractionation plant or gas processing facility, or
 - (vii) fuel is purchased by the holder of a licence issued under section 18,

or

(b) in any other prescribed circumstance.

(4) The carbon levy payable pursuant to this section must be remitted in accordance with section 25.

Carbon levy on fuel used by interjurisdictional carrier

5(1) Subject to the regulations, every interjurisdictional carrier shall pay to the Crown at the prescribed time a carbon levy on fuel used in Alberta, at the rate for that type of fuel set out in the Table in the Schedule, regardless of where the fuel was purchased.

(2) The carbon levy payable pursuant to subsection (1) must be determined in accordance with the regulations and shall be reduced by the amount of carbon levy that the interjurisdictional carrier paid pursuant to section 4(2).

(3) If the amount determined pursuant to subsection (2) is negative, the interjurisdictional carrier is entitled to a refund of the carbon levy paid equal to the amount determined by the formula

$A - B$

where

A is the amount of carbon levy required to be paid by the interjurisdictional carrier pursuant to section 4(2);

B is the amount of carbon levy required to be paid by the interjurisdictional carrier pursuant to subsection (1).

(4) Subject to the regulations, the carbon levy payable by an interjurisdictional carrier shall be administered, enforced and adjusted as provided by Division 1.1 of Part 1 of the *Fuel Tax Act*.

Carbon levy on locomotive diesel

6(1) Every recipient shall pay to the Crown at the prescribed time a carbon levy on locomotive diesel used in a railway locomotive operated by the recipient in Alberta, at the rate for that type of fuel set out in the Table in the Schedule, regardless of where the fuel was purchased.

(2) The carbon levy payable under subsection (1) must be determined in accordance with the regulations.

(3) The carbon levy payable pursuant to this section must be remitted in accordance with section 25.

Carbon levy on aviation gas and aviation jet fuel

7(1) In this section, “commercial purpose” means commercial purpose as defined in the regulations.

(2) Notwithstanding that a consumer is entitled to purchase aviation gas or aviation jet fuel exempt from the carbon levy pursuant to section 15, the consumer shall pay to the Crown at the prescribed time a carbon levy on aviation gas or aviation jet fuel used by the consumer for any flight or segment of a flight that began at a location in Alberta and arrived at a location in Alberta, at the rate set out in the Table in the Schedule, regardless of where the fuel was purchased.

(3) Subsection (2) does not apply to a flight or segment of a flight in prescribed circumstances.

(4) Subject to the regulations, no carbon levy is payable on aviation gas or aviation jet fuel used by a recipient for a flight or segment of a flight

(a) that departs from a location in Alberta if the first scheduled arrival on the flight is located outside of Alberta and the flight is made for a commercial purpose, or

(b) that arrives at a location in Alberta if the flight is arriving from a location outside of Alberta.

(5) A recipient that paid a carbon levy pursuant to section 4(2) on aviation gas or aviation jet fuel used for a flight described in subsection (4) is entitled to a refund of the carbon levy paid.

(6) The carbon levy payable or refundable under this section must be determined in accordance with the regulations.

(7) The carbon levy payable pursuant to this section must be remitted in accordance with section 25.

Carbon levy on natural gas

8(1) Every recipient shall pay to the Crown a carbon levy on raw gas or natural gas, at the rate for that type of fuel set out in the

Table in the Schedule, at the time the recipient sells, removes or purchases the raw gas or natural gas from a gas battery, gas gathering system, gas processing facility, gas well, oil battery, oil production site, oil sands processing plant or straddle plant.

(2) Notwithstanding subsection (1), no carbon levy is payable under this section

(a) at the time

- (i) raw gas or natural gas is moved into a gas battery, gas gathering system or gas processing facility,
- (ii) natural gas is moved into a transmission pipeline or a natural gas distribution system, or
- (iii) raw gas or natural gas is purchased exempt from the levy under section 15,

or

(b) in any other prescribed circumstance.

(3) Every recipient shall pay to the Crown a carbon levy on natural gas, at the rate for natural gas set out in the Table in the Schedule, at the time the recipient sells, removes or purchases natural gas from a transmission pipeline.

(4) Notwithstanding subsection (3), no carbon levy is payable under this section

(a) at the time

- (i) natural gas is moved into a natural gas distribution system or straddle plant, or
- (ii) natural gas is purchased exempt from the levy under section 15,

or

(b) in any other prescribed circumstance.

(5) Subject to subsections (6) to (9), every recipient shall pay to the Crown a carbon levy on natural gas, at the rate for natural gas set out in the Table in the Schedule, at the time the recipient sells,

removes or purchases natural gas from a natural gas distribution system.

(6) No carbon levy is payable under subsection (5) if the natural gas is purchased exempt from the levy under section 15.

(7) The amount of the carbon levy payable by a recipient pursuant to subsection (5) must be determined by the natural gas distributor and either

- (a) communicated by the natural gas distributor to the retail dealer that provides natural gas services to the recipient at the time other billing information in respect of the recipient is provided to the retail dealer, or
- (b) billed by the natural gas distributor to the recipient at the time the recipient is billed for the recipient's natural gas usage if the natural gas distributor is the entity that provides natural gas services to the recipient.

(8) Subject to the regulations, the retail dealer shall remit to the natural gas distributor at the prescribed time the total amount of carbon levy determined by the natural gas distributor pursuant to subsection (7) and communicated to the retail dealer by the natural gas distributor.

(9) Every natural gas distributor shall remit to the Minister at the prescribed time the total amount of carbon levy determined by the natural gas distributor pursuant to subsection (7) in respect of all recipients.

(10) Every recipient that imports raw gas or natural gas into Alberta that, without first having been sold or resold in Alberta is put, in Alberta, into a fuel system that produces heat or energy, or is flared or vented, shall pay to the Crown a carbon levy on the fuel, at the rate for that type of fuel set out in the Table in the Schedule, at the time the fuel is imported.

(11) A carbon levy payable pursuant to this section must be determined in accordance with the regulations and must be remitted in accordance with section 25.

Carbon levy on miscellaneous fuels

9(1) This section applies to the following fuels:

- (a) coke oven gas;
- (b) refinery gas;
- (c) low heat value coal;
- (d) high heat value coal;
- (e) refinery petroleum coke;
- (f) upgrader petroleum coke;
- (g) coal coke.

(2) Subject to the regulations, every consumer shall pay to the Crown a carbon levy on fuel, at the rate for that type of fuel set out in the Table in the Schedule, at the time the consumer

- (a) purchases fuel if the fuel is located in Alberta at the time of purchase, or
- (b) imports fuel into Alberta that, without first having been sold or resold in Alberta, is put, in Alberta, into a fuel system that produces heat or energy.

(3) Notwithstanding subsection (2), no carbon levy is payable under this section

- (a) at the time
 - (i) fuel is exported from Alberta in bulk, or
 - (ii) fuel is purchased exempt from the carbon levy under section 15,

or

- (b) in any other prescribed circumstance.

(4) The vendor shall collect the carbon levy payable by a consumer pursuant to subsection (2)(a) and remit it in accordance with section 25.

(5) The consumer shall remit the carbon levy payable pursuant to subsection (2)(b) in accordance with section 25.

Carbon levy payable by direct remitter

10(1) Every recipient that is a direct remitter shall pay to the Crown at the prescribed time a carbon levy on its own use of fuel.

(2) The carbon levy payable pursuant to subsection (1) must be determined in accordance with the regulations.

(3) The carbon levy payable pursuant to this section must be remitted in accordance with section 25.

Division 2 Special Rules

Mixtures and blends of fuels

11(1) If

- (a) a substance includes amounts of more than one fuel, and
- (b) the substance has not been prescribed as a mixture or blend for the purposes of subsection (3),

for the purposes of determining the carbon levy payable pursuant to this Act, the substance is deemed to be the fuel that is present in the highest proportion in the substance.

(2) Notwithstanding subsection (1), if the substance includes more than a prescribed proportion of a 2nd fuel, the carbon levy must be determined in accordance with the regulations.

(3) If a combination of fuels has been prescribed as a mixture or blend, the carbon levy payable in respect of the mixture or blend must be determined in accordance with the regulations.

Rebranded fuel

12(1) Subject to the regulations, every recipient that rebrands fuel shall pay to the Crown at the prescribed time a carbon levy determined in accordance with the regulations if the carbon levy rate that applies to the fuel after it is rebranded is higher than the carbon levy rate that applied to the fuel before it was rebranded.

(2) The carbon levy payable pursuant to this section must be remitted in accordance with section 25.

Change in carbon levy rate applicable to fuel

13(1) In this section,

- (a) “owner”, in respect of fuel, means the legal owner of the fuel;
- (b) “possession”, in respect of fuel, means
 - (i) the state of having the fuel in one’s own personal possession, or
 - (ii) the state of knowingly having the fuel in the actual possession of another person, other than the person from whom the fuel was purchased.

(2) Subject to the regulations, if a change in the carbon levy rate applicable to a fuel takes effect between the time a recipient purchases the fuel and the time the recipient takes delivery of the fuel, the carbon levy on the fuel is payable at the rate that is in effect on the day on which the recipient takes delivery of the fuel.

(3) Subject to the regulations, if, at the beginning of a day on which the carbon levy rate applicable to a type of fuel changes, a recipient

- (a) is the owner of fuel of that type,
- (b) is in possession of the fuel for sale or resale in Alberta, and
- (c) was required to pay a carbon levy on the fuel at the time the fuel was purchased or imported into Alberta,

the recipient must file with the Minister, at the prescribed time and in the prescribed form and manner, a report that includes the quantity of fuel of that type owned by the recipient at the beginning of that day and any other prescribed information.

(4) Subject to the regulations, if the carbon levy rate on the fuel has increased, a recipient referred to in subsection (3) shall pay to the Crown, at the prescribed time, the amount determined by the formula

$A - B$

where

- A is the carbon levy that would otherwise be required to be paid on the fuel if the fuel had been purchased on the day on which the rate on the fuel increased;
- B is the carbon levy that was required to be paid by the recipient on the fuel.

(5) Subject to the regulations, if the carbon levy rate on the fuel has decreased, a recipient that files a report in accordance with subsection (3) is entitled to a refund of the portion of the carbon levy that was paid in respect of the fuel equal to the amount determined by the formula

$$B - A$$

where

- A is the carbon levy that would otherwise be required to be paid on the fuel if the fuel had been purchased on the day on which the rate on the fuel decreased;
- B is the carbon levy that was required to be paid by the recipient on the fuel.

(6) The carbon levy payable pursuant to this section must be remitted in accordance with section 25.

(7) The Minister shall refund the amount determined pursuant to subsection (5) to the recipient described in that subsection if the Minister is satisfied that the recipient is entitled to the refund.

Rounding

14 Where the amount of the carbon levy required to be paid pursuant to this Act includes a fraction of a cent, the amount shall be rounded to

- (a) the next higher cent, in the case of the carbon levy on a fuel other than natural gas, or
- (b) the nearest cent, in the case of the carbon levy on natural gas.

Division 3 Exemptions

Purchases exempt from carbon levy

15(1) Subject to the regulations, a consumer is exempt from paying a carbon levy on fuel if

- (a) the consumer provides at the time of purchase a valid carbon levy exemption certificate or other prescribed evidence of exemption and the fuel is intended for a prescribed purpose or use,
- (b) the fuel is used by the consumer in the operation of a specified gas emitter as set out in the regulations,
- (c) the consumer uses the fuel for a prescribed purpose or use and the consumer
 - (i) provides prescribed evidence of exemption at the time of purchase, or
 - (ii) is prescribed to be, or is a member of a class of consumers prescribed to be, exempt from the carbon levy on that type of fuel under section 16(3),
- (d) the consumer uses the fuel before 2023 as set out in the regulations,
- (e) the fuel is marked fuel that is used for farming operations, or
- (f) the fuel is not put into a fuel system that produces heat or energy, and is not flared or vented, when used
 - (i) as a raw material in an industrial process that produces another fuel,
 - (ii) as a raw material in an industrial process that produces another substance that is not a fuel,
 - (iii) as a solvent or diluent in the production or transport of crude bitumen or other substances, or
 - (iv) for any other prescribed purpose.

(2) Where required under the regulations, fuel that is exempt from the carbon levy must be marked fuel.

Carbon levy exemption certificate

16(1) The Minister may, on application by a consumer made in accordance with the regulations, issue a carbon levy exemption certificate to the consumer identifying the consumer as a person that is entitled to purchase fuel exempt from the carbon levy for a prescribed purpose or use.

(2) If the Minister refuses to issue a carbon levy exemption certificate, the Minister shall give to the applicant a notice of refusal specifying the reasons for refusal.

(3) If a consumer would be eligible to be issued a carbon levy exemption certificate were the consumer to apply under subsection (1), the Minister may, in prescribed circumstances and in accordance with the regulations,

- (a) issue a carbon levy exemption certificate to the consumer without having received an application under subsection (1), or
- (b) prescribe the consumer, or a class of consumers, to be exempt from the carbon levy on a particular type of fuel.

Duty of vendor

17(1) When a vendor sells fuel to a consumer described in section 15(1), the vendor shall not collect the carbon levy from the consumer.

(2) A vendor that contravenes subsection (1) is liable to pay to the Crown an amount equal to the amount of the carbon levy the vendor collected from the consumer.

Licence for exemption

18(1) A recipient that would otherwise regularly be entitled to refunds or credits pursuant to section 26(2) may apply to the Minister in accordance with the regulations for a licence identifying the recipient as a person that is entitled to purchase fuel exempt from the carbon levy.

(2) Subject to the regulations, the Minister may, on application made by a recipient under subsection (1), issue a licence to the recipient identifying the recipient as a person that is entitled to purchase fuel exempt from the carbon levy.

(3) The Minister may refuse to issue a licence to an applicant or to renew a licence if the applicant has contravened this Act or a regulation under this Act or has contravened a law in force in Alberta or in another jurisdiction that governs the collection or payment of a carbon levy or tax.

(4) The Minister may suspend or cancel a licence if the recipient holding the licence has contravened this Act or a regulation under this Act or has contravened a law in force in Alberta or in another jurisdiction that governs the collection or payment of a carbon levy or tax.

(5) The Minister may refuse to issue a licence to an applicant or to renew a licence if the applicant is dealing not at arm's length with a person whose licence or registration has been suspended or cancelled or whose application for a licence or for registration or for renewal of a licence or registration has been refused.

(6) If the Minister refuses to issue a licence to an applicant or to renew a licence or suspends or cancels a licence, the Minister shall give to the applicant a notice of refusal, suspension or cancellation specifying the reasons for the refusal, suspension or cancellation.

Division 4 Rebates and Biomethane Credits

Rebate of carbon levy

19(1) Subject to the regulations, the Minister may, on application by a consumer that has paid a carbon levy under this Act, pay a rebate to the consumer in respect of the carbon levy paid on fuel used for a prescribed purpose or use.

(2) If the Minister refuses an application for a rebate under subsection (1) in whole or in part, the Minister shall give to the applicant a notice of disallowance specifying the amount of the disallowance and the reasons for it.

Biomethane credit

20(1) A consumer is entitled to a biomethane credit in prescribed circumstances.

(2) A recipient shall provide, at the prescribed time, a biomethane credit to a consumer in an amount determined in accordance with the regulations.

(3) Subject to the regulations, the Minister shall refund to a recipient a portion of the carbon levy remitted by the recipient if the Minister is satisfied that

- (a) a consumer was entitled to a biomethane credit pursuant to subsection (1),
- (b) the recipient provided a biomethane credit to the consumer in respect of biomethane pursuant to subsection (2), and
- (c) the recipient remitted the carbon levy payable by the consumer in accordance with section 25 without deduction of the biomethane credit.

(4) The amount of a refund under subsection (3) must be determined in accordance with the regulations.

(5) A recipient that provided a biomethane credit to a consumer under subsection (2) but did not receive a refund under subsection (3) because the consumer was not entitled to receive the biomethane credit may bring an action in the Provincial Court or the Court of Queen's Bench to recover the amount of the biomethane credit from the consumer.

Division 5 Other Circumstances in Which a Carbon Levy is Payable

Prohibited sale

21(1) No vendor shall sell fuel exempt from the carbon levy to a consumer

- (a) that, at the time of purchase,
 - (i) does not provide a carbon levy exemption certificate or other prescribed evidence of exemption, and
 - (ii) is not prescribed by the Minister to be, and is not a member of a class of consumer prescribed by the Minister to be, exempt from the carbon levy on that type of fuel,

or

(b) if the vendor knows or ought to know that the carbon levy exemption certificate or prescribed evidence is false in a material way or that the fuel will not be used for a prescribed purpose or use.

(2) If a vendor sells fuel exempt from the carbon levy to a consumer in contravention of subsection (1), the vendor and the consumer are jointly and severally liable to pay to the Crown the carbon levy the consumer would have been required to pay had the fuel not been sold exempt from the carbon levy.

Prohibited use

22(1) No consumer that purchases fuel exempt from the carbon levy shall use the fuel for any purpose or use other than a prescribed purpose or use.

(2) A consumer that purchases fuel exempt from the carbon levy and that subsequently uses or permits that fuel to be used for a purpose or use contrary to subsection (1) is liable to pay to the Crown the carbon levy with respect to the amount of fuel the Minister determines has been used for a purpose or use contrary to subsection (1) that the consumer would have been required to pay had the fuel not been purchased exempt from the carbon levy.

Possession of marked fuel

23(1) No person shall be in possession of marked fuel unless

(a) the person

(i) has been issued a carbon levy exemption certificate, and

(ii) is in possession of the marked fuel for a prescribed purpose or use, or for farming operations in Alberta,

or

(b) the person is otherwise authorized by the regulations to be in possession of marked fuel.

(2) A person that is in possession of marked fuel contrary to subsection (1) is liable to pay to the Crown the amount of carbon levy with respect to the amount of marked fuel in the possession of

that person that the person would have been required to pay had the marked fuel not been purchased exempt from the carbon levy.

Payment of levy in respect of prohibited action

24 The carbon levy payable pursuant to sections 21 to 23 must be remitted in accordance with section 25.

**Division 6
Remittance and Recovery
of Carbon Levy**

Remittance of carbon levy

25(1) Subject to the regulations, the following persons are direct remitters:

- (a) a person that sells or removes fuel from a refinery;
- (b) a person that sells or removes fuel from a terminal;
- (c) a person that manufactures, refines or acquires in, or imports into, Alberta not less than a total of 500 million litres of clear fuel annually;
- (d) a person that imports fuel into Alberta for the purpose of sale or resale;
- (e) a person that imports fuel into Alberta that, without first having been sold or resold in Alberta, is put, in Alberta, into a fuel system that produces heat or energy;
- (f) a person that sells or removes fuel from a gas battery, gas fractionation plant, gas gathering system, gas processing facility, gas well or straddle plant;
- (g) a person that sells or removes fuel from an oil battery, oil production site or oil sands processing plant;
- (h) a person to which section 6 applies;
- (i) a person to which section 7 applies;
- (j) a natural gas distributor;
- (k) a vendor to which section 9(4) applies;

- (l) a consumer to which section 9(5) applies;
- (m) a person that holds a licence issued under section 18;
- (n) a person that sells or removes natural gas from a transmission pipeline;
- (o) a person that flares or vents fuel;
- (p) a person that produces, processes or refines fuel;
- (q) a person that rebrands fuel;
- (r) a person that sells or removes natural gas from a natural gas distribution system;
- (s) any other prescribed person.

(2) Subject to subsection (4), a direct remitter shall remit the carbon levy payable pursuant to sections 4, 6, 7, 8, 9(2)(b) and (4) and 10 to the Minister at the prescribed times and in the prescribed manner.

(3) Subject to the regulations, every recipient other than a direct remitter shall remit the carbon levy payable pursuant to sections 4, 8 and 9(2)(a) to the person that supplied the recipient with the fuel.

(4) When a direct remitter purchases fuel on which the carbon levy is payable pursuant to sections 4, 8 or 9, the direct remitter shall remit the carbon levy to the person that supplied the direct remitter with the fuel.

(5) A recipient shall remit the carbon levy payable pursuant to sections 12, 13, 17, 21, 22 and 23 to the Minister at the prescribed times and in the prescribed manner.

(6) An interjurisdictional carrier shall remit the carbon levy payable pursuant to section 5 to the Minister at the same time and in the same manner as the interjurisdictional carrier remits fuel tax payable to the Minister under the *Fuel Tax Act*.

Carbon levy recovery, refunds and credits

26(1) Subject to this section, if a recipient other than a consumer pays the carbon levy on fuel and sells the fuel, the recipient shall recover the carbon levy it paid from amounts received pursuant to section 25(3) or (4).

(2) Subject to the regulations, the Minister may, on application by a recipient, provide a refund or credit for all or part of the carbon levy paid by the recipient on fuel where the Minister is satisfied that

- (a) the recipient paid the carbon levy, and
- (b) one of the following circumstances has occurred:
 - (i) the fuel was sold exempt from the carbon levy pursuant to section 15;
 - (ii) the fuel was exported from Alberta in bulk;
 - (iii) a verifiable quantity of the fuel was stolen or destroyed;
 - (iv) the fuel was rebranded and the carbon levy rate that applied to the fuel after it was rebranded is lower than the carbon levy rate that applied to the fuel before it was rebranded;
 - (v) the fuel was sold to prescribed persons in prescribed circumstances.

(3) Subject to subsection (4), subsection (2)(b) does not apply to a recipient that is a consumer.

(4) Subsection (2)(b)(ii) applies to a consumer in respect of aviation gas and aviation jet fuel exported from Alberta in bulk by the consumer.

(5) Where losses of fuel are unverifiable, the Minister may, on application by a recipient, provide a refund of all or part of the carbon levy paid by the recipient on lost fuel.

(6) If the Minister refuses in whole or in part an application for a refund or credit under subsection (2) or an application for a refund under subsection (5), the Minister shall give to the applicant a notice of disallowance specifying the amount of the disallowance and the reasons for it.

Division 7 Registration

Registration

27(1) Subject to the regulations, no person shall

- (a) in Alberta
 - (i) produce, process or refine fuel,
 - (ii) sell or remove fuel from a gas fractionation plant, gas processing facility or straddle plant,
 - (iii) sell or remove fuel from a gas battery, gas gathering system or gas well,
 - (iv) sell or remove fuel from an oil battery, oil production site or oil sands processing plant,
 - (v) sell or remove fuel from a specified gas emitter,
 - (vi) flare or vent fuel,
 - (vii) sell or remove fuel from a terminal or refinery,
 - (viii) operate a terminal or act as a position holder within a terminal operated by another person,
 - (ix) sell or remove natural gas from a transmission pipeline,
 - (x) sell or remove natural gas from a natural gas distribution system,
 - (xi) sell fuel for the purpose of resale,
 - (xii) sell aviation gas or aviation jet fuel,
 - (xiii) hold a carbon levy exemption certificate for aviation gas or aviation jet fuel,
 - (xiv) sell fuel to which section 9 applies,
 - (xv) sell fuel exempt from the carbon levy,
 - (xvi) mark fuel, or

- (xvii) rebrand fuel,
- (b) import fuel into Alberta,
 - (i) for the purpose of sale or resale, or
 - (ii) that, without first having been sold or resold in Alberta, is put, in Alberta, into a fuel system that produces heat or energy,
- (c) export fuel from Alberta in bulk,
- (d) use locomotive diesel in Alberta,
- (e) hold a licence issued under section 18, or
- (f) engage in any other prescribed activity,

unless the person is registered under this section.

(2) An application for registration must be made in accordance with the regulations.

(3) The Minister may refuse to register an applicant or to renew a registration if the applicant has contravened this Act or a regulation under this Act or has contravened a law in force in Alberta or in another jurisdiction that governs the collection or payment of a carbon levy or tax.

(4) The Minister may cancel or suspend a registration if the registrant has contravened this Act or a regulation under this Act or has contravened a law in force in Alberta or in another jurisdiction that governs the collection or payment of a carbon levy or tax.

(5) The Minister may refuse to register an applicant or to renew a registration if the applicant is dealing not at arm's length with a person whose registration has been suspended or cancelled or whose application for registration or for renewal of registration has been refused.

(6) If the Minister refuses to register an applicant or to renew a registration or suspends or cancels a registration, the Minister shall give to the applicant a notice of refusal, suspension or cancellation specifying the reasons for the refusal, suspension or cancellation.

Part 2 Assessments

Assessment of carbon levy to be remitted

28(1) Subject to subsections (2) and (3), the Minister may, within 4 years from the end of the calendar year in which the carbon levy was to have been remitted, assess a direct remitter for the amount of carbon levy owing that the direct remitter failed to remit.

(2) If a direct remitter has

- (a) made any misrepresentation that is attributable to neglect, carelessness or wilful default, or
- (b) committed a fraud in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information,

the Minister may assess the amount of carbon levy owing under this section at any time the Minister considers reasonable.

(3) If a direct remitter has filed a waiver in a form established by the Minister within 4 years from the end of the year in which the carbon levy was to have been remitted and

- (a) the direct remitter has not revoked the waiver, the Minister may, in accordance with the terms of the waiver, assess the amount of the carbon levy owing under this section at any time, or
- (b) the direct remitter has revoked the waiver, the Minister may, in accordance with the terms of the waiver, assess the amount of the carbon levy owing under this section within 6 months after the Minister receives notice of the revocation.

(4) The Minister shall notify a direct remitter of an assessment under this section by serving a notice of assessment on the direct remitter.

(5) Evidence that an assessment has been made under this section is proof, in the absence of evidence to the contrary, that the amount of the carbon levy assessed is owing to the Crown from the direct remitter on whom the notice of assessment under subsection (4) is served.

Assessment of amount owing

29(1) In this section, “amount owing” by a person means

- (a) if the person is a recipient other than a direct remitter, the amount of carbon levy that has not been paid by the recipient,
- (b) the amount by which a refund or credit provided to the person under section 26 exceeds the refund or credit to which the person was entitled,
- (c) the amount by which a rebate provided to the person under section 19 exceeds the rebate to which the person was entitled, or
- (d) the amount a person is liable for under section 17, 21, 22, 23 or 42.

(2) Subject to subsections (3) and (4), the Minister may, within 4 years from the end of the calendar year in which the amount owing was first owed by a person, assess the person for the amount owing.

(3) If a person has

- (a) made any misrepresentation that is attributable to neglect, carelessness or wilful default, or
- (b) committed a fraud in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information,

the Minister may assess the amount owing at any time the Minister considers reasonable.

(4) If a person has filed a waiver in a form established by the Minister within 4 years from the end of the calendar year in which the amount owing was first owed and

- (a) the person has not revoked the waiver, the Minister may, in accordance with the terms of the waiver, assess the amount owing at any time, or
- (b) the person has revoked the waiver, the Minister may, in accordance with the terms of the waiver, assess the

amount owing within 6 months after the Minister receives notice of the revocation.

(5) The Minister shall notify a person of an assessment under this section by serving a notice of assessment on the person.

(6) Evidence that an assessment has been made under this section is proof, in the absence of evidence to the contrary, that the amount assessed is owing to the Crown from the person on whom the notice of assessment under subsection (5) is served.

Overpayment of carbon levy

30(1) Where the Minister has reason to believe that a person has paid more carbon levy than was required, the Minister may, within 4 years after the overpayment was made, assess the person for the amount that was required to be paid.

(2) The Minister shall notify a person of an assessment under this section by serving a notice of assessment on the person.

Assessment of penalties

31(1) If an assessment is made against a person under section 28 or 29 and all or a portion of the amount assessed against that person is attributable to

- (a) neglect, carelessness or wilful default by or on behalf of that person, or
- (b) fraud or evasion committed by or on behalf of that person,

the Minister may, in addition to the amount owing under the assessment under section 28 or 29, assess a penalty against the person in the amount of 50% of the amount so attributable.

(2) Evidence that an assessment of a penalty has been made under subsection (1) is proof, in the absence of evidence to the contrary, that the amount owing and the penalty under this section are owing to the Crown from the person on whom the notice of assessment under subsection (4) is served.

(3) If a person fails to submit a return or report as and when required by this Act or the regulations, the Minister may assess a penalty against the person in the amount that is the greater of \$25

for each day of default and 5% of any unpaid carbon levy, to a maximum penalty of \$1000.

(4) The Minister shall notify a person of an assessment under subsection (1) or (3) by serving a notice of assessment on the person.

Effect of assessment

32(1) Unless it is varied or vacated on an objection or appeal,

- (a) an assessment made under section 28, 29, 31, 34 or 35 is deemed to be valid and binding notwithstanding any error, defect or omission in it or in any proceeding under this Act relating to it, and
- (b) the amount assessed in an assessment made under section 28, 29, 31, 34 or 35 is, for the purposes of collection and recovery, deemed to be an amount owing under this Act and to be conclusively established as a debt due to the Crown.

(2) Every person assessed under section 28, 29, 31, 34 or 35 shall, within 30 days after the service of the notice of assessment, pay the amount assessed against the person whether or not an objection to or appeal from the assessment is outstanding.

(3) Liability for an amount owing under this Act is not affected by the fact that no assessment has been made or no notice of assessment has been served.

(4) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act or the regulations and may, notwithstanding a return or information so delivered, or if no return or information has been delivered, assess an amount payable under this Act.

(5) Subject to subsection (6), if a notice of assessment shows an amount in favour of the person assessed, the Minister shall pay that amount to the person within 30 days of service of the notice of assessment.

(6) Notwithstanding the *Financial Administration Act*, if a notice of assessment indicates an amount owing or a refund of less than the amount prescribed under subsection (8), the Minister may

- (a) in the case of an amount owing, not collect it, or
- (b) in the case of a refund, not pay it unless specifically requested by the person to whom the amount is payable.

(7) A request under subsection (6)(b) must be made no later than the day on which all rights of objection and appeal with respect to the assessment expire.

(8) The Minister may by regulation prescribe the amount for the purpose of subsection (6).

Interest

33 Interest is payable in accordance with the regulations on any amounts owing or assessed under this Act.

Certificate of payment

34(1) A trustee in bankruptcy, assignee, liquidator, administrator, receiver, receiver-manager or any similar person (referred to in this section as the “responsible representative”) who administers, winds up, controls or otherwise deals with the property or business of a person that owes an amount under this Act (referred to in this section as the “debtor”) shall, before distributing any property over which the responsible representative has control, obtain a certificate from the Minister certifying that all amounts

- (a) for which the debtor is liable under this Act up to the date of the certificate, and
- (b) for the payment of which the responsible representative is or can reasonably be expected to become liable in the capacity of responsible representative

have been paid or that security for the payment of the amounts has been accepted by the Minister.

(2) If a responsible representative distributes property in contravention of subsection (1), the responsible representative is personally liable to a penalty in an amount equal to the value of the property distributed, and the Minister may assess the responsible representative for the amounts in the same manner and with the same effect as if it were an assessment under this Part against the debtor for whose property or business the responsible representative is responsible.

(3) The Minister shall notify a person of an assessment under subsection (2) by serving a notice of assessment on the person.

Liability in respect of transfers by insolvent person

35(1) If property is transferred at any time by a person that owes an amount under this Act (referred to in this section as the “debtor”) to a person with whom the debtor does not deal at arm’s length at that time and the debtor is insolvent or becomes insolvent because of the transfer or because of the transfer and one or more other transactions with that person, the person is jointly and severally liable with the debtor to pay the liability under this Act of the debtor equal to the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at the time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor under any other provisions of this Act.

(2) If

- (a) property is transferred at any time from a person (in this subsection referred to as the “transferor”) to another person (in this subsection referred to as the “transferee”) with whom the transferor does not deal at arm’s length,
- (b) the transferor is liable because of subsection (1) or this subsection to pay an amount of the liability of the debtor under this Act, and
- (c) it can reasonably be considered that one of the reasons for the transfer would be, but for this subsection, to prevent the enforcement of this section,

the transferee is jointly and severally liable with the transferor and the debtor to pay an amount of the debtor’s liability under this Act equal to the lesser of the amount of the liability that the transferor was liable to pay at that time and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at the time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor or the transferor under any other provisions of this Act.

(3) The Minister may at any time assess a person in respect of any amount payable because of this section.

(4) Where a person has become jointly and severally liable under this section with a debtor in respect of part or all of a liability under this Act of the debtor,

- (a) a payment by the person on account of that person's liability discharges the joint liability to the extent of the payment, but
- (b) a payment by the debtor on account of that debtor's liability discharges the person's liability only to the extent that the payment operates to reduce the debtor's liability to an amount less than the amount in respect of which the person is, by this section, made jointly and severally liable.

(5) The Minister shall notify a person of an assessment under subsection (3) by serving a notice of assessment on the person.

Amounts recoverable as debts

36 Carbon levy, penalties, interest and other amounts owing under this Act are debts recoverable by the Crown in an action in debt.

Set-off

37(1) If a person to whom an amount is owing under this Act owes money to the Crown, the Minister may, instead of making a payment to that person, apply the whole or any part of the payment owing to the person to reduce or eliminate the debt the person owes to the Crown.

(2) Where the Minister applies a payment under subsection (1), the Minister shall notify the person referred to in subsection (1) of the reduction or elimination of the debt.

Certificate of amount not paid

38(1) Where an amount owing under this Act has not been paid or has been paid only in part, the Minister may issue a certificate stating the amount or the part of the amount that has not been paid.

(2) A certificate issued under subsection (1) may be filed in the Court as if it were a judgment of the Court.

(3) When a certificate issued under subsection (1) is filed in the Court,

- (a) the certificate has the same force and effect as if it were a judgment of the Court in the amount stated in the certificate, together with interest to the day of payment, and
- (b) proceedings may be taken to enforce payment of the amount owing as stated in the certificate in the same manner as if the certificate were a judgment of the Court.

(4) All reasonable costs and charges payable in respect of the filing of a certificate in the Court are recoverable as if they had been certified and the certificate had been filed under this section.

Payment by third party

39(1) If the Minister has knowledge or suspects that a person is or will be, within one year, liable to make any payment to a person that owes an amount under this Act (referred to in this section as the “debtor”), the Minister may, by written notice, require the person to pay the amount otherwise payable to the debtor in whole or in part to the Minister on account of the amount owing by the debtor.

(2) Without limiting the generality of subsection (1), if the Minister has knowledge or suspects that within 90 days

- (a) a bank, credit union, trust corporation, loan corporation or other similar person (referred to in this section as the “institution”) will lend or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a debtor that is indebted to the institution and that has granted security in respect of the indebtedness, or
- (b) a person other than an institution will lend or advance money to, or make a payment on behalf of, a debtor that the Minister knows or suspects
 - (i) is employed by, or is engaged in providing services or property to, that person or was or will be, within 90 days, so employed or engaged, or

- (ii) if that person is a corporation, is not dealing at arm's length with that person,

the Minister may, by written notice, require the institution or person to pay in whole or in part to the Minister on account of the amount owing by the debtor under this Act the money that would otherwise be so lent, advanced or paid, and any money so paid to the Minister is deemed to have been lent, advanced or paid to the debtor.

(3) If a person who receives a notice under subsection (1) or (2) is liable to make a payment jointly to the debtor and one or more other persons, for the purposes of this section it is deemed that the money payable is divided into as many equal portions as there are persons who are owed the money jointly and that the debtor is the unconditional and sole owner of one portion of the money.

(4) The Minister, the debtor or any person who is owed the money jointly with the debtor may, within 30 days of the written notice being given under subsection (1) or (2), apply to the Court

- (a) for an order that the debtor is entitled to a smaller or greater portion of the money, and
- (b) for appropriate relief.

(5) Notice of an application under subsection (4) must be served

- (a) if the applicant is the debtor or a person who is owed the money jointly with the debtor, on all the other persons who are owed the money jointly and the Minister, or
- (b) if the applicant is the Minister, on all the persons who are owed the money jointly.

(6) The receipt of the Minister for money paid under this section is a good and sufficient discharge of the amount owing by the debtor to the extent of that payment.

(7) The Minister shall apply any amount received under this section to the account of the debtor and shall notify the debtor of the amount received.

(8) A person who receives a notice under subsection (1) or (2) is not entitled to set off any amount payable under this section against an amount otherwise owing to that person.

(9) A person who, after receiving a notice under subsection (1), discharges any liability to the debtor without complying with a requirement under this section is liable to pay to the Crown the lesser of

- (a) an amount equal to the liability discharged, and
- (b) the amount that the person was required under this section to pay to the Minister.

(10) An institution or other person who, after receiving a notice under subsection (2), fails to comply with a requirement under this section with respect to money to be lent, advanced or paid is liable to pay to the Crown an amount equal to the lesser of

- (a) the total amount of money so lent, advanced or paid, and
- (b) the amount that the institution or person was required under subsection (2) to pay to the Minister.

(11) If the person who is or is about to become liable carries on business under a name or style other than the person's own name, the notice under subsection (1) or (2) may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(12) If the person who is or is about to become liable carries on business in a partnership, the notice under subsection (1) or (2) may be addressed to the partnership name and, in the case of personal service, is deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

Amounts in jeopardy

40(1) In this section, "judge" means a judge of the Court.

(2) Where, on ex parte application by the Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed against a person would be jeopardized by a delay in the collection of it, the judge shall, on the terms the judge considers reasonable in the circumstances, authorize the Minister to file a certificate under

section 38 notwithstanding that the 30 days referred to in section 32(2) has not yet elapsed.

(3) Where a judge is satisfied that the receipt of a notice of assessment by a person in respect of an amount assessed against the person would likely jeopardize the collection of that amount, an authorization under subsection (2) may be granted by the judge notwithstanding that the notice of assessment in respect of that amount has not been served on the person at or before the time the application is made.

(4) Statements contained in an affidavit filed in support of an application under this section may be based on belief with the grounds for it.

(5) An authorization granted under this section in respect of a person must be served by the Minister on the person within 72 hours after it is granted except where the judge orders the authorization to be served at some other time specified in the authorization, and where a notice of assessment has not been served on the person at or before the time the application is made under subsection (2), the notice of assessment must be served together with the authorization.

(6) For the purpose of subsection (5), service on a person must be effected by

- (a) personal service on the person, or
- (b) service in accordance with directions, if any, of a judge.

(7) Where service on a person cannot reasonably be effected as and when required under this section, the Minister may, as soon as practicable, apply to a judge for further direction.

(8) Where a judge has granted an authorization under this section in respect of a person, the person may, on 6 clear days' notice to the Deputy Minister of Justice and Deputy Solicitor General, apply to a judge to review the authorization.

(9) An application under subsection (8) must be made

- (a) within 30 days from the day on which the authorization was served on the person in accordance with this section, or

(b) within any further time a judge may allow, on being satisfied that the application was made as soon as practicable.

(10) An application under subsection (8) may, on the application of the person, be heard in private if the person establishes to the satisfaction of the judge that the circumstances of the case justify private proceedings.

(11) On an application under subsection (8), the judge may confirm, set aside or vary the authorization and make any other order as the judge considers appropriate.

(12) Where any question arises as to the course to be followed in connection with anything done or being done under this section and there is no direction in this section with respect to it, a judge may give any direction with regard to it that, in the judge's opinion, is appropriate.

(13) No appeal lies from an order of a judge made pursuant to subsection (11).

Liability of directors for failure to remit

41(1) Where a corporation has failed to remit the carbon levy payable by that corporation, the directors of that corporation at the time the corporation was required to remit the carbon levy are jointly and severally liable, together with the corporation, to pay the carbon levy owing and any interest and penalties relating to the carbon levy.

(2) A director is not liable under subsection (1) unless

- (a) a certificate for the amount of the corporation's liability referred to in subsection (1) has been filed in the Court under section 38 and execution for that amount has been returned unsatisfied in whole or in part,
- (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within 6 months after the earlier of the date of the commencement of the proceedings and the date of dissolution,

- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy and Insolvency Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within 6 months after the date of the assignment or receiving order, or
- (d) a compromise or arrangement has been proposed under the *Companies' Creditors Arrangement Act* (Canada) in respect of the corporation.

(3) Notwithstanding subsection (2), a director is not liable under subsection (1) if the director exercised due diligence in attempting to ensure the corporation remitted the carbon levy.

(4) The Minister shall not take action to collect an amount owed by a director under this section until

- (a) all reasonable efforts to collect the amount from the corporation have been made by the Minister, and
- (b) the director has been notified in writing of the director's liability under this section.

(5) A notice under subsection (4)(b) may not be sent more than 2 years after the director last ceased to be a director of the corporation.

(6) Where a director pays an amount in respect of a corporation's liability referred to in subsection (1) that is proved in bankruptcy proceedings, the director is entitled to any preference that the Crown would have been entitled to had that amount not been so paid and, where a certificate that relates to that amount has been filed, the director is entitled to an assignment of the certificate to the extent of the director's payment, which assignment the Minister is hereby empowered to make.

(7) A director who has satisfied a claim under this section is entitled to a contribution from the other directors who were liable for the claim.

Delegation of duty

42 If a person has, in accordance with the regulations, delegated the responsibility to remit the carbon levy owing under this Act or to do anything else that the person is required to do under this Act

or the regulations to another person and that other person fails to remit the carbon levy or fails to do anything required to be done under this Act or the regulations that is delegated to that person, both persons are jointly and severally liable for any carbon levy, penalties, interest or other amounts related to, arising from or connected with the failure to remit the carbon levy or the failure to do anything required to be done under this Act or the regulations that is so delegated.

Notice of objection

43(1) A person that objects to

- (a) a notice of assessment under section 28, 29, 30, 31, 34 or 35,
- (b) a notice of refusal under section 16(2),
- (c) a notice of refusal, suspension or cancellation of a licence under section 18,
- (d) a notice of disallowance under section 19(2),
- (e) a notice of disallowance under section 26(6),
- (f) a notice of cancellation of a carbon levy exemption certificate pursuant to the regulations, or
- (g) a notice of refusal, suspension or cancellation of a registration under section 27

may, within 90 days after the day the Minister gives the notice, serve on the Minister a notice of objection in a form established by the Minister setting out the reasons for the objection and the relevant facts.

(2) A notice of objection under this section must be served by being sent by registered mail addressed to the Minister.

(3) The Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required by subsection (2).

(4) On receipt of a notice of objection, the Minister shall with all due dispatch reconsider the action and shall

- (a) vacate, confirm or vary the assessment or disallowance and notify the objector of the Minister's decision,
- (b) serve a new notice of assessment or give a new notice of disallowance,
- (c) issue a carbon levy exemption certificate under section 16 or give a new notice confirming the Minister's refusal to issue a carbon levy exemption certificate,
- (d) revoke the cancellation of the carbon levy exemption certificate or issue a new carbon levy exemption certificate or give a new notice confirming the cancellation of the carbon levy exemption certificate,
- (e) issue a licence under section 18 or give a new notice confirming the Minister's refusal to issue a licence,
- (f) revoke the suspension or cancellation of the licence or issue a new licence or give a new notice confirming the suspension or cancellation of the licence, or
- (g) confirm the refusal, suspension or cancellation of registration, register the applicant or renew the registration or revoke the suspension or cancellation of the registration.

(5) Notwithstanding subsection (4), if the person indicates in the notice of objection that the person wishes to appeal immediately to the Court and waives reconsideration of the action by the Minister, the Minister may on receipt of the notice of objection consent to an immediate appeal by serving a notice of consent on the person by registered mail or personal service.

(6) If the Minister consents to an immediate appeal under subsection (5), the Minister is deemed for the purposes of section 46(1)(a) to (e) to have confirmed the assessment, disallowance, refusal, suspension or cancellation, as the case may be, to which the notice relates, and the person may, within 90 days after the day the Minister's notice of consent to an immediate appeal was served on the person, institute an appeal to the Court in accordance with section 46(2).

Extension of time by Minister

44(1) Where no notice of objection has been served under section 43 within the time limited by that section for doing so, the person may apply to the Minister for an extension of the time for serving a notice of objection.

(2) An application made under subsection (1) must set out the reasons why the notice of objection was not served within the time otherwise limited by section 43 for doing so.

(3) An application made under subsection (1) must be served by being sent by registered mail addressed to the Minister and must be accompanied with a copy of the notice of objection.

(4) The Minister may accept an application made under subsection (1) notwithstanding that it was not served in the manner required by subsection (3).

(5) On receipt of an application made under subsection (1), the Minister shall with all due dispatch consider the application and grant or refuse it and notify the person of the decision in writing.

(6) Where an application made under subsection (1) is granted, the notice of objection is deemed to have been served on the day the person is notified of the Minister's decision.

(7) No application may be granted under this section unless

- (a) the application is made within one year after the expiration of the time otherwise limited by section 43 for serving a notice of objection, and
- (b) the person demonstrates that
 - (i) within the time otherwise limited by section 43 for serving the notice, the person
 - (A) was unable to act or to instruct another to act in the person's name, or
 - (B) intended in good faith to object to a notice referred to in section 43(1),
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

- (iii) the application was made as soon as circumstances permitted.

Extension of time by Court

45(1) A person that has made an application under section 44 may apply to the Court to have the application granted after

- (a) the Minister has refused the application, or
- (b) 90 days has elapsed after service of the application under section 44 and the Minister has not notified the person of the Minister's decision,

but no application under this section may be made after the expiration of 90 days after the day a notification under section 44(5) was sent to the person.

(2) An application under subsection (1) must be made by serving on the Minister by registered mail a copy of the documents referred to in section 44(3) and the notice referred to in section 44(5), if any, and by filing a copy of each with the clerk of the Court.

(3) The Court may grant or dismiss an application made under subsection (1) and, in granting an application, may impose any terms it considers just or may order that the notice of objection is deemed to have been served on the date of its order.

(4) No application may be granted under this section unless

- (a) the application was made under section 44 within one year after the expiration of the time otherwise limited by section 43 for serving a notice of objection, and
- (b) the person demonstrates that
 - (i) within the time otherwise limited by section 43 for serving the notice, the person
 - (A) was unable to act or to instruct another to act in the person's name, or
 - (B) intended in good faith to object to the assessment,

- (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
- (iii) the application was made under section 44 as soon as circumstances permitted.

Notice of appeal

46(1) A person that has served a notice of objection under section 43(1) may appeal to the Court to have the assessment or disallowance vacated or varied, a carbon levy exemption certificate issued under section 16, a licence issued under section 18 or the refusal, suspension or cancellation of a registration or a licence revoked after

- (a) the Minister has confirmed the assessment or disallowance or served a new notice of assessment or given a new notice of disallowance under section 43(4),
- (b) the Minister has given a new notice confirming the Minister's refusal to issue a carbon levy exemption certificate under section 16,
- (c) the Minister has given a new notice confirming the Minister's cancellation of a carbon levy exemption certificate,
- (d) the Minister has confirmed the Minister's refusal, suspension or cancellation of a licence under section 18,
- (e) the Minister has confirmed the Minister's refusal, suspension or cancellation of registration, or
- (f) 90 days has elapsed after service of the notice of objection and the Minister has not acted under section 43(4),

but no appeal under this section may be instituted after the expiration of 90 days from the day a notification or notice under section 43(4) was served or otherwise given to the objector.

(2) An appeal to the Court must be instituted by filing a notice of appeal with the clerk of the Court and serving a copy of the filed notice of appeal on the Minister.

(3) A notice of appeal must be served on the Minister by being sent by registered mail addressed to the Minister.

(4) The notice of appeal must have attached to it a copy of the notice of objection and, for the purposes of section 49, is deemed to be a statement of claim.

Reply to notice of appeal

47(1) The Minister shall, within 60 days from the day a notice of appeal is received or within any further time that the Court may allow either before or after the expiration of that time, serve on the appellant and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of any further allegations of fact and of any applicable statutory provisions and any reasons on which the Minister intends to rely.

(2) The Court may strike out a notice of appeal or any part of a notice for failure to comply with section 46 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(3) The Court may

- (a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply, or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time that it considers appropriate.

(4) If a notice of appeal is struck out for failure to comply with section 46 and a new notice of appeal is not filed as and when permitted by the Court, the Court may dismiss the appeal.

(5) If a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the Court within the time ordered, the Court may dispose of the appeal ex parte or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true.

Powers of Court

48(1) On the filing of the material referred to in sections 46 and 47(1), (2) and (3), the matter in respect of which the material is filed is deemed to be an action in the Court.

(2) A fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in any manner and on any terms that the Court may direct.

(3) The Court may

- (a) dismiss the appeal, or
- (b) allow the appeal and
 - (i) vacate the assessment or disallowance,
 - (ii) vary the assessment or disallowance,
 - (iii) restore the assessment or disallowance,
 - (iv) refer the assessment or disallowance back to the Minister for reconsideration,
 - (v) order the Minister to issue a carbon levy exemption certificate under section 16,
 - (vi) order the Minister to revoke the cancellation of a carbon levy exemption certificate or issue a new certificate,
 - (vii) order the Minister to issue a licence under section 18 or renew the licence or revoke the cancellation or suspension of the licence, or
 - (viii) order the Minister to register the applicant under section 27 or renew the registration or revoke the cancellation or suspension of the registration.

(4) The Court may, in delivering judgment on an appeal, order payment or repayment of carbon levy, a refund or credit under section 26, a rebate under section 19 and interest, penalties or costs of the appellant or the Minister.

Practice and procedure

49 Except as provided in the regulations, the practice and procedure of the Court, including the right of appeal and the practice and procedure relating to appeals to the Court of Appeal or the Supreme Court of Canada, apply to every matter deemed to be an action under section 48, and every judgment and order given or made in each such action may be enforced in the same manner and

by the same process as a judgment or order given or made in an action commenced in the Court.

Irregularities

50 An assessment or disallowance shall not be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of a person in the observance of a directory provision of this Act.

Documents deemed signed

51 A document purporting to have been executed under or in the course of the administration or enforcement of this Act over the name in writing of the Minister or an official authorized by the Minister to exercise powers or perform duties of the Minister under this Act is deemed to have been signed, made and issued by the Minister or the official unless called into question by the Minister or by a person acting for the Minister or for the Crown.

Part 3 Investigations, Enforcement and Offences

Division 1 Investigations and Enforcement

Definition

52 In this Part, “property” includes computer hardware.

Authority to enter on land

53 For the purpose of carrying out duties under this Act and the regulations, the Minister or an officer may enter on any land, whether or not that land is enclosed.

General powers respecting inspections

54(1) For the purpose of carrying out duties under this Act and the regulations, the Minister or an officer may do all or any of the following:

- (a) subject to subsection (4), enter, without a warrant, at any reasonable time, the following premises for the purpose of conducting an inspection, audit or examination:

- (i) any premises used by the person in connection with the refinement, production, importation, exportation, storage, transportation, distribution, purchase, sale, blending or rebranding or use of fuel;
 - (ii) any premises containing any records or property that relates to the refinement, production, importation, exportation, storage, transportation, distribution, purchase, sale, blending, rebranding or use of fuel or any other records or property that is required to be kept under this Act or the regulations;
- (b) make any inquiries of a person that are or may be relevant to an inspection, audit or examination under this section;
 - (c) require any person keeping any records or property related to the refinement, production, importation, exportation, storage, transportation, distribution, purchase, sale, blending, rebranding or use of fuel or any other records or property that is required to be kept under this Act or the regulations to provide those records or that property to the Minister or an officer;
 - (d) require any person keeping any records or property related to any amount payable under this Act to provide those records or property to the Minister or an officer;
 - (e) examine any fuel on the premises, including any fuel contained in the fuel tank of any motor vehicle found on the premises or in any other receptacle, and take samples of that fuel;
 - (f) use any computer hardware or software to obtain readings or other information from the engine of a motor vehicle found on the premises.
- (2)** If any records or property is provided to the Minister or an officer pursuant to subsection (1)(c) or (d), the Minister or officer may
- (a) examine the records or property, and
 - (b) remove the records for the purpose of making copies in accordance with section 59.

(3) For the purpose of producing a readable record from a computer system used by a person to whom a request is made pursuant to subsection (1), the Minister or an officer may use any computer hardware or software in the possession of that person.

(4) The Minister or an officer shall not enter any premises that are a dwelling house except with the consent of the occupant or under the authority of a warrant obtained pursuant to section 55.

Warrant

55(1) Where a justice of the peace or judge of the Provincial Court is satisfied by information on oath of the Minister or an officer that there are reasonable grounds to believe that an offence against this Act or the regulations has occurred and that evidence of that offence is likely to be found, the justice of the peace or the judge of the Provincial Court may issue a warrant to authorize the Minister or officer to do all or any of the following:

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

(2) Under the authority of a warrant issued pursuant to subsection (1), the Minister or officer may do all or any of the following:

- (a) at any time, enter and search any place or premises named in the warrant;
- (b) stop and search any motor vehicle described in the warrant;
- (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the Minister or officer finds in the place, premises or motor vehicle;
- (d) require the production of and examine any records or property that the Minister or officer believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;

- (e) remove, for the purpose of making copies in accordance with section 59, any records examined pursuant to this section;
- (f) seize and remove from any place, premises or motor vehicle searched anything that may be evidence of an offence against this Act or the regulations.

(3) Subject to subsection (4), the Minister or officer may exercise all or any of the powers mentioned in subsection (2) without a warrant if

- (a) the conditions for obtaining a warrant exist, and
- (b) the Minister or 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) The Minister or an officer shall not enter any premises that are a dwelling house without a warrant obtained pursuant to this section unless the occupant of those premises consents to the entry.

Authority to stop and inspect motor vehicles

56(1) For the purposes of carrying out duties under this Act and the regulations, an officer may, without a warrant, signal or request the operator of a motor vehicle to stop the vehicle to enable the officer to examine its fuel and take a sample of it when the officer has reasonable cause to suspect that the operator or owner of the motor vehicle is not authorized to be in possession of marked fuel or is using marked fuel other than for a prescribed purpose or use or farming operations in Alberta.

(2) The operator of a motor vehicle shall, when signalled or requested by an officer who is readily identifiable as an officer,

- (a) immediately bring the motor vehicle to a safe stop,
- (b) immediately provide access to the fuel tank of the motor vehicle or other receptacle on or attached to the motor vehicle where the officer reasonably believes that marked fuel may be located, and

- (c) permit the officer to examine the fuel in the fuel tank of the motor vehicle or in another receptacle on or attached to the motor vehicle and take samples of the fuel.

Searches of motor vehicles transporting fuel in bulk

57(1) When requested to do so by an officer, every person transporting fuel in bulk and every operator of a motor vehicle transporting fuel in bulk, other than in the fuel tank of a motor vehicle, shall provide the officer with written proof of

- (a) the quantity and type of fuel being transported,
- (b) the name and address of the person or persons from whom the fuel was obtained,
- (c) the name and address of every person to whom the fuel was delivered or is to be delivered, and
- (d) the use or intended use, if known, of the fuel delivered or to be delivered.

(2) An officer may detain a motor vehicle transporting fuel in bulk, other than fuel in the fuel tank of a motor vehicle, if

- (a) the written proof requested under subsection (1) is not provided, or
- (b) the officer wishes to verify any written proof provided under subsection (1).

(3) An officer may detain a motor vehicle under subsection (2) until the written proof requested under subsection (1) has been provided and verified to the satisfaction of the officer.

Demand for records and property

58(1) For the purpose of carrying out duties under this Act, the Minister or an officer may serve a written demand on any person requiring that person to produce any records or property in that person's control that relates to the refinement, production, importation, exportation, storage, transportation, distribution, purchase, sale, blending, rebranding or use of fuel, or any amount payable under this Act or any other records or property that is required to be kept under this Act or the regulations within a reasonable period of time specified in the demand.

(2) A person on whom a written demand is served pursuant to this section shall produce the records or property mentioned in the written demand within the time specified in the demand.

(3) The Minister or an officer may inspect and examine any records or property produced pursuant to a written demand served pursuant to subsection (1) and remove the records for the purpose of making copies in accordance with section 59.

(4) If a person is served with a written demand under this section and the person does not comply with the demand, the Minister or an officer may apply to the Court for an order directing the person to comply with the demand.

(5) On the filing of an application with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting any relief that the Court considers appropriate pending the determination of the application.

(6) An interim order under subsection (5) may be made ex parte if the Court considers it appropriate in the circumstances.

(7) On hearing an application, the Court may do one or more of the following:

- (a) direct the person to produce the records or property where the Court is satisfied that
 - (i) the records or property demanded is in the possession of or under the control of the person, and
 - (ii) the records or property demanded is relevant to the administration or enforcement of this Act or the regulations;
- (b) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (c) award costs in respect of the matter.

Copies of records

59(1) Where any records are removed pursuant to section 54, 55 or 58, the Minister or officer may make copies of those records.

(2) The Minister or officer shall

- (a) make those copies with reasonable dispatch, and
- (b) promptly return the originals of the records to
 - (i) the place they were removed from, or
 - (ii) any other place that may be agreed to by the Minister or officer and the person who produced them or from whom they were seized.

(3) A record certified by the Minister or an officer to be a copy made pursuant to this section

- (a) is admissible in evidence without proof of the office or signature of the person purporting to have issued the certificate, and
- (b) has the same probative force as the original record.

Hindering Minister or officer

60(1) No person shall hinder, molest or interfere with the Minister doing anything that the Minister is authorized to do by or pursuant to section 53, 54, 55 or 58 or attempt to prevent the Minister doing that thing and, notwithstanding any other law to the contrary, a person shall, unless the person is unable to do so, do everything the person is required to do pursuant to section 53, 54, 55 or 58.

(2) No person shall hinder, molest or interfere with any officer doing anything that the officer is authorized to do by or pursuant to section 53, 54, 55, 56, 57 or 58 or prevent or attempt to prevent any officer doing that thing and, notwithstanding any other law to the contrary, a person shall, unless the person is unable to do so, do everything the person is required to do by or pursuant to section 53, 54, 55, 56, 57 or 58.

Division 2 Offences

Offences and penalties re direct remitters

61 A recipient that is a direct remitter that contravenes section 4, 6, 7, 8, 9, 10, 12, 13, 21, 22, 23, 25 or 27 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$10 000 or to a term of imprisonment of not more than 6 months or to both a fine and imprisonment, and
- (b) for a subsequent offence, to a fine of not more than \$25 000 or to a term of imprisonment of not more than one year or to both a fine and imprisonment.

Offences and penalties re vendors and retail dealers

62 A vendor or retail dealer, that is not a direct remitter, that contravenes section 4, 8, 12, 13, 17, 21, 22, 23, 25 or 27 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$10 000 or to a term of imprisonment of not more than 6 months or to both a fine and imprisonment, and
- (b) for a subsequent offence, to a fine of not more than \$25 000 or to a term of imprisonment of not more than one year or to both a fine and imprisonment.

Offences and penalties re consumers

63 A recipient other than a direct remitter, vendor or retail dealer that contravenes section 4, 8, 12, 21, 22, 23 or 25 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$1000, and
- (b) for a subsequent offence, to a fine of not more than \$5000 or to a term of imprisonment of not more than 6 months or to both a fine and imprisonment.

Offences re documents and records

64 A person that

- (a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in an application, return, statement, record, report or document delivered or made under this Act or the regulations,
- (b) destroys, alters, mutilates or disposes of the records of a person required to keep records under this Act or the regulations,

- (c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents to or acquiesces in the omitting of material particulars in the records of a person required to keep records under this Act or the regulations,
- (d) wilfully evades or attempts to evade compliance with this Act or the regulations, or
- (e) conspires with any person to commit an offence described in clauses (a) to (d)

is guilty of an offence and, in addition to any penalty otherwise provided for by this Act, is liable to a fine of not more than 300% of the carbon levy evaded or sought to be evaded, the difference between the amount that should have been remitted and the amount remitted, or the refund, credit, reimbursement or rebate obtained or sought to be obtained, or to that fine and a term of imprisonment of not more than 2 years.

Failure to file returns or maintain records

65(1) A person that fails to submit a return or report or to provide or produce information or a document as and when required by this Act or the regulations is guilty of an offence and liable to a fine of \$50 for each day of default.

(2) A person that fails to maintain records and books of account when required by the Minister to do so under section 77(a) is guilty of an offence and liable to a fine of \$50 for each day from the day the person receives notification of the requirement to the day the person complies with the requirement.

General offences and penalties

66 A person that contravenes a provision of this Act or the regulations for which a penalty is not otherwise provided is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$1000 or to a term of imprisonment of not more than one month or to both a fine and imprisonment, and

- (b) for a subsequent offence, to a fine of not more than \$5000 or to a term of imprisonment of not more than 6 months or to both a fine and imprisonment.

Offence exemption

67 Without limiting any rule of law relating to the immunity of the Crown, sections 61 to 66 do not apply to the carrying out of powers and duties in the course of investigations or undercover operations related to the enforcement of this Act by a person who, at the time of the contravention of any of sections 61 to 66, is

- (a) an employee of the Crown under the Minister's administration, or
- (b) an officer.

Part 4 Administrative Provisions and Regulations

Records

68(1) Every person that is required to be registered under section 27 shall keep records in accordance with the regulations.

(2) Subject to subsections (3) and (4), a record must be retained for 6 years from the end of the calendar year in which the record was created.

(3) A person referred to in subsection (1) may apply to the Minister for permission to destroy a record before the 6-year period has elapsed.

(4) The Minister may before the end of the 6-year period require a person referred to in subsection (1) to retain a record for a further period as specified by the Minister.

Communication of information

69(1) Information collected under this Act may be disclosed as necessary to

- (a) the Government of Canada,
- (b) the government of a province or territory, or

(c) the government of any other jurisdiction

if the information is used solely for the purpose of administering or enforcing a taxation statute, or a statute that imposes a price on carbon emissions, of Canada or of that province, territory or other jurisdiction and the Government of Canada or government of that province, territory or other jurisdiction supplies the Government of Alberta with similar information under an information-sharing agreement.

(2) Information collected under this Act may be disclosed as necessary to the Minister responsible for the *Climate Change and Emissions Management Act* or any regulation under that Act for the purpose of administering or enforcing that Act or regulation.

(3) No person to whom information is disclosed under subsection (1) or (2) shall further disclose or use that information for any purpose other than the purpose for which it was disclosed to that person.

(4) Notwithstanding subsection (3), a person may communicate information to any person engaged or employed in the investigation or prosecution of offences under the *Criminal Code (Canada)* solely for the purpose of investigating and prosecuting an offence.

(5) The Minister may, in accordance with the regulations, disclose information about a registrant or other person where the information is required by the person to whom it is disclosed

(a) for the purpose of complying with this Act or the regulations, or

(b) to determine if the registrant or other person is complying with this Act or the regulations.

(6) The Minister may, in accordance with the regulations, publish the following information about a registrant:

(a) the name of the registrant;

(b) the address of the registrant;

(c) the type of registration;

(d) any other prescribed information.

(7) The Minister, the Minister responsible for the *Climate Change and Emissions Management Act* or any regulation under that Act or the Minister responsible for the *Fuel Tax Act* or any regulation under that Act may collect and use information as necessary for the purpose of formulating or analyzing carbon levy, tax, fiscal, enforcement, climate change or renewable fuels standard policy.

(8) Information collected under this Act may be communicated to a person employed or engaged by the Government of Alberta if the information is to be used solely for the purposes of the formulation or analysis of tax, carbon levy or fiscal policy.

(9) For the purposes of this section, “information” includes personal information.

Security for amounts owing

70(1) The Minister may, if the Minister considers it advisable in a particular case, accept security for payment of debts due to the Crown under this Act by way of mortgage or other charge on, or a security interest of any kind under the *Personal Property Security Act* on, property of the person liable for the debt or any other person or by way of guarantee from other persons.

(2) If a person that has furnished security under subsection (1) requests in writing that the Minister surrender the security, the Minister may surrender the security to the extent that the value of the security exceeds the aggregate of amounts payable under this Act by that person at that time.

Service

71 Where a notice or other document is to be served on or is to be sent or given to a person by the Minister or an officer under this Act, the notice or document may be served on or sent or given to the person by personal service, fax or other form of electronic transmission, registered or regular mail or any other method specified in the regulations.

Date notice or document mailed or sent

72 For the purposes of this Act, where a notice or other document is mailed or sent by fax or other form of electronic transmission, it is presumed to be mailed or sent, as the case may be, on the date of that notice or other document.

Electronic notice sent

73(1) For the purposes of this Act, if a notice or other communication in respect of a person is made available in electronic format such that it can be read or perceived by a person or a computer system or other similar device, the notice or other communication is presumed to be sent to the person and received by the person on the date that an electronic message is sent, to the electronic address most recently provided before that date by the person to the Minister for the purposes of this subsection, informing the person that a notice or other communication requiring the person's immediate attention is available in the person's secure electronic account.

(2) For the purposes of subsection (1), a notice or other communication is considered to be made available if it is posted by the Minister in the person's secure electronic account and the person has authorized that notices or other communications may be made available in that manner and has not, before the date that the electronic message is sent, revoked that authorization in a manner specified by the Minister.

Limitation on prosecution

74 A prosecution for an offence under this Act or the regulations may be commenced within 4 years from the date of the contravention, but not afterwards.

Limitations Act

75 The *Limitations Act* does not apply to the Crown with respect to any matter arising under this Act.

Certificates as evidence

76 In a prosecution for an offence under this Act or the regulations,

- (a) a certificate of the Minister or a person lawfully acting on the Minister's behalf stating that the defendant is or is not registered under this Act, or was or was not so registered at a time or during a period of time specified in it,
- (b) a certificate of any person designated or appointed by the Minister stating the results of the examination of any substance referred to in the certificate and stating one or more of the following:

- (i) that the substance is or is not a fuel;
- (ii) if the substance is a fuel, the type of fuel;
- (iii) if the substance is a fuel, that the fuel is or is not marked fuel;
- (iv) that the substance does or does not contain a colouring matter or identifying substance authorized to be used under the regulations,

or

- (c) a certificate of the Minister stating that a person named in the certificate is an officer for the purposes of this Act,

shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the matters stated in it without any proof that the certificate was signed by the person purporting to sign it or of the appointment of the person signing it.

Powers of Minister

77 The Minister may

- (a) require any person, in a particular case,
 - (i) to keep any record in the manner and place required by the Minister,
 - (ii) to make any return or report,
 - (iii) to comply with a specified method of accounting, or
 - (iv) to make or reconcile an inventory of fuel as of a specified time,for a purpose related to the administration of this Act or the regulations;
- (b) establish or approve the form of any agreement, authorization or other document or form used in the administration of this Act;
- (c) extend the time for making a report or return under this Act;

- (d) enter into agreements with the government of any jurisdiction inside or outside Canada, or with any other person, with respect to the administration and enforcement of this Act or any fuel tax, carbon tax or carbon levy legislation in any other jurisdiction, including, without limitation, agreements with respect to the collection of the carbon levy under this Act or similar taxes or levies collected by other jurisdictions and the determination of fuel used in a jurisdiction.

Waiver or cancellation of penalties or interest

78 Notwithstanding the *Financial Administration Act*, the Minister may, on application made by a person within 4 years from the end of the calendar year in which a penalty or interest is assessed against the person

- (a) waive or cancel all or any portion of any penalty or interest payable under this Act by the person, or
- (b) refund all or any portion of any penalty or interest paid under this Act by the person.

Regulations

79(1) The Lieutenant Governor in Council may make regulations

- (a) defining words or expressions to be defined by the regulations, and any other word or expression used in this Act but not defined in this Act;
- (b) exempting any fuel from the application of section 4;
- (c) prescribing activities for the purposes of section 4(2)(k);
- (d) prescribing circumstances under which no carbon levy is payable under this Act;
- (e) respecting the determination of the amount of carbon levy payable or refundable under this Act;
- (f) prescribing the times at which carbon levy must be paid;
- (g) respecting the remittance of a carbon levy under this Act, including, without limitation, regulations prescribing the

times at which, the manner in which and the persons to whom a remittance must be made;

- (h) respecting the carbon levy payable by an interjurisdictional carrier pursuant to section 5, including, without limitation, regulations respecting the circumstances in which the *Fuel Tax Act* and the regulations under that Act do not apply to the administration, enforcement or adjustment of the carbon levy payable by an interjurisdictional carrier and providing for the administration, enforcement or adjustment of the carbon levy in those circumstances;
- (i) respecting the carbon levy payable by a consumer on fuel pursuant to section 9(2);
- (j) prescribing a proportion of a 2nd fuel for the purposes of section 11(2) and prescribing a combination of fuels as a mixture or blend for the purposes of section 11(3);
- (k) respecting the carbon levy payable by a recipient pursuant to section 12 on fuel that has been rebranded;
- (l) respecting changes to the carbon levy rate applicable to fuel for the purposes of section 13, prescribing circumstances in which a report is not required to be filed under section 13(3), respecting the carbon levy payable on fuel pursuant to section 13(2) and (4) and respecting refunds under section 13(5);
- (m) respecting exemptions from the payment of a carbon levy on fuel under section 15, including, without limitation,
 - (i) regulations prescribing circumstances in which a consumer is not exempt under section 15(1) from paying a carbon levy on fuel, and
 - (ii) regulations
 - (A) for the purposes of section 15(1)(b), respecting the use of fuel by a consumer in the operation of a specified gas emitter,
 - (B) for the purposes of section 15(1)(d), respecting the use of fuel by a consumer before 2023, and

- (C) for the purposes of section 15(1)(f)(iv), prescribing purposes for the use of fuel;
- (n) prescribing purposes or uses for which fuel exempt from the carbon levy is intended to be or may be used;
- (o) respecting the circumstances in which fuel exempt from the carbon levy must be marked fuel and respecting persons that are entitled or authorized to possess marked fuel;
- (p) prescribing the types of evidence of exemption for the purposes of sections 15 and 21;
- (q) respecting carbon levy exemption certificates, including, without limitation, regulations respecting
 - (i) applications for carbon levy exemption certificates,
 - (ii) the circumstances in which carbon levy exemption certificates may be issued without application,
 - (iii) the types of carbon levy exemption certificates that may be issued,
 - (iv) the suspension or cancellation of carbon levy exemption certificates, and
 - (v) refusals to issue carbon levy exemption certificates;
- (r) prescribing persons that are, or classes of persons whose members are, exempt from the payment of a carbon levy pursuant to this Act and respecting any terms or conditions to which the exemption is subject;
- (s) respecting licences under section 18, including, without limitation, regulations respecting
 - (i) applications for licences,
 - (ii) the persons entitled to apply for licences,
 - (iii) the circumstances in which persons may apply for licences,
 - (iv) the types of licence that may be issued,

- (v) the suspension or cancellation of licences, and
- (vi) refusals to issue licences;
- (t) respecting rebates under section 19, including, without limitation, regulations respecting applications for rebates and circumstances in which rebates are not payable;
- (u) respecting biomethane credits and respecting refunds in respect of biomethane credits, including, without limitation, regulations
 - (i) prescribing circumstances in which a consumer is entitled to a biomethane credit under section 20(1),
 - (ii) respecting the determination of the amount of a biomethane credit under section 20(2),
 - (iii) respecting refunds under section 20(3), including, without limitation, circumstances in which refunds are not payable, and
 - (iv) respecting the determination of the amount of a refund under section 20(4);
- (v) prescribing a person as a direct remitter and respecting circumstances in which a person is not a direct remitter pursuant to section 25(1);
- (w) respecting the recovery of carbon levy and the provision of refunds and credits under section 26, including, without limitation, regulations respecting applications for refunds and credits;
- (x) respecting registrations under section 27, including, without limitation, regulations
 - (i) prescribing circumstances in which a person is not required to be registered,
 - (ii) prescribing activities for the purposes of section 27(1)(f),
 - (iii) respecting applications for registration,
 - (iv) respecting the suspension or cancellation of registrations, and

- (v) respecting refusals to register persons;
- (y) requiring security bonds, bank guarantees or other financial arrangements to be furnished or made by any person that remits carbon levies pursuant to this Act and prescribing the form and amount of the bonds, guarantees or other financial arrangements;
- (z) respecting interest payable under this Act, including, without limitation, prescribing the rate of interest and the manner of calculation of interest payable for the purposes of section 33;
- (aa) respecting certificates to be issued under section 38;
- (bb) respecting the delegation of duties for the purposes of section 42;
- (cc) respecting records and property to be kept under this Act, including, without limitation, regulations respecting the manner and place where records and property are to be kept;
- (dd) respecting the disclosure, communication and publishing of information for the purposes of section 69;
- (ee) respecting circumstances in which section 80(2), (4) or (5) does not apply;
- (ff) respecting returns and reports to be made and submitted to the Minister, including the persons required to make them, the form and manner in which they are required to be made, the time at which they are required to be made and the information that must be included in them;
- (gg) respecting the practice and procedures of the Court in respect of proceedings under this Act;
- (hh) respecting the service of notices and documents under this Act;
- (ii) prescribing, for the purposes of section 1(1)(o) of the Schedule, the moisture content to which high heat value coal is to be normalized and prescribing, for the purposes of section 1(1)(s) of the Schedule, the moisture content to which low heat value coal is to be normalized;

- (jj) prescribing the moisture content to which coal coke, refinery petroleum coke or upgrader petroleum coke is to be normalized for the purposes of section 1(5) of the Schedule;
 - (kk) prescribing or providing for any other matter or thing required or authorized by this Act to be prescribed;
 - (ll) respecting any other matter or thing the Lieutenant Governor in Council considers necessary or expedient to carry out the intent of this Act.
- (2) The Minister may make regulations
- (a) prescribing a person as a natural gas distributor;
 - (b) prescribing a person as a recipient or members of a class of persons as recipients;
 - (c) prescribing a consumer, or members of a class of consumers, to be exempt from the carbon levy on a particular type of fuel;
 - (d) respecting the contents of waivers for the purposes of sections 28 and 29;
 - (e) respecting forms for the purposes of this Act;
 - (f) prescribing fees for any applications, services or other matters under this Act.
- (3) A regulation made under this Act is, if it so provides, effective with reference to a period before it was made.

Part 5 Transitional Provisions, Related Amendments and Coming into Force

Transitional

80(1) In this section,

- (a) “owner”, in respect of fuel, means the legal owner of the fuel;
- (b) “possession”, in respect of fuel, means

- (i) the state of having the fuel in one's own personal possession, or
- (ii) the state of knowingly having the fuel in the actual possession of another person, other than the person from whom the fuel was purchased.

(2) Subject to subsection (6), a person that purchases fuel before January 1, 2017, but takes delivery of the fuel on or after January 1, 2017, shall pay to the Crown a carbon levy on the fuel at the rate for that type of fuel set out in the Table in the Schedule that is in effect on the day on which the person takes delivery of the fuel.

(3) Subject to subsection (6), a person that on January 1, 2017,

- (a) is the owner of fuel,
- (b) is in possession of the fuel for sale or resale in Alberta, and
- (c) would have been required to pay a carbon levy on the fuel at the time the fuel was purchased or imported had this Act been in effect when the fuel was purchased or imported into Alberta

must comply with subsections (4) and (5).

(4) A person referred to in subsection (3) must file with the Minister, at the prescribed time and in the prescribed form and manner, a report that includes the prescribed information.

(5) Subject to the regulations, a person referred to in subsection (3) shall pay to the Crown the amount determined by the formula

$A \times B$

where

- A is the quantity of fuel in the recipient's possession at the beginning of the day;
- B is the carbon levy rate for the fuel on January 1, 2017.

(6) A carbon levy is not payable on fuel referred to in subsection (2) or (3) if

- (a) the person is otherwise entitled to purchase that fuel exempt from the carbon levy on January 1, 2017, or
 - (b) a carbon levy would not previously have been required to have been paid on that fuel had this Act been in effect when the fuel was purchased or imported into Alberta.
- (7) A person to whom subsection (6) applies is deemed to be a recipient for the purposes of this Act with respect to fuel described in subsection (3) and must comply with section 4 with respect to that fuel.
- (8) The carbon levy payable under this section must be remitted to the Crown at the prescribed time and in the prescribed manner.

Related amendments

81 The *Fuel Tax Act* is amended

- (a) by adding the following after section 21:

**Division 1.1
Carbon Levy Payable by
Interjurisdictional Carriers**

Administration and enforcement of carbon levy

21.1 Subject to the regulations under the *Climate Leadership Act*, the carbon levy payable by an interjurisdictional carrier under the *Climate Leadership Act* shall be administered and enforced in accordance with this Act and the regulations as if the carbon levy were a tax imposed under this Act.

Adjustment of carbon levy

21.2 Subject to the regulations under the *Climate Leadership Act*, any carbon levy paid by an interjurisdictional carrier under the *Climate Leadership Act* shall be adjusted by the Minister in accordance with the terms and conditions of the International Fuel Tax Agreement and any resolutions made pursuant to that Agreement.

- (b) in section 63

- (i) by adding the following after subsection (1.1):

(1.2) Information collected under this Act may be disclosed as necessary to the Minister responsible for the *Climate Leadership Act* or any regulation under that Act for the purpose of administering or enforcing that Act or regulation.

(ii) in subsection (2) by striking out “subsection (1) or (1.1)” **and substituting** “subsection (1), (1.1) or (1.2)”;

(iii) by repealing subsection (6) and substituting the following:

(6) The Minister, the Minister responsible for the *Climate Leadership Act* or any regulation under that Act or the Minister responsible for the *Climate Change and Emissions Management Act* or any regulation under that Act may collect and use information as necessary for the purpose of formulating or analyzing carbon levy, tax, fiscal, enforcement, climate change or renewable fuels standard policy.

Coming into force

82 This Act comes into force on January 1, 2017.

Schedule

Interpretation

1(1) In this Schedule,

- (a) “aviation gas” means a substance suitable to power an aircraft that is not propelled by a turbine;
- (b) “aviation jet fuel” means a substance suitable to power an aircraft that is propelled by a turbine;
- (c) “biomethane” means methane produced from biological sources, including, without limitation, the anaerobic decomposition of biological waste;
- (d) “bunker fuel” means a crude oil distillate having a viscosity of greater than 5.5 centistokes at 40°C;

- (e) “butane” means, in addition to its normal scientific meaning, a mixture mainly of butanes that ordinarily may contain some propane or pentanes plus;
- (f) “coal coke” means a solid carbonaceous residue derived from low-ash, low-sulfur bituminous coal from which the volatile constituents were driven off by baking in an oven with the result that the fixed carbon and residual ash are fused together;
- (g) “coke oven gas” means gas that is recovered from the carbonization of coal at high temperatures in a coke oven for the production of coal coke and processed to be suitable as a fuel;
- (h) “diesel” means a substance, including renewable diesel, that is sold or represented as diesel suitable for generating power by means of a diesel engine, but does not include locomotive diesel or heating distillate oil;
- (i) “diesel engine” means an internal combustion engine, including a stationary engine, in which internal combustion is initiated by compression;
- (j) “ethane” means, in addition to its normal scientific meaning, a mixture mainly of ethane, which may ordinarily include some methane or propane;
- (k) “gas liquids” means a mixture of 2 or more of ethane, propane, butane or pentanes plus, whether in gaseous or liquid form,
 - (i) that is obtained from the processing of natural gas or crude oil, and
 - (ii) of which the exact composition is unknown;
- (l) “gasoline” means a substance, including renewable gasoline, that is sold or represented as gasoline suitable for use in a spark-ignition engine;
- (m) “heating distillate oil” means a diesel fuel used in a furnace, boiler or open flame burner or any other diesel not subject to either federal or provincial renewable fuel standards;

- (n) “heavy fuel oil” means a substance that is a distillate or a residual of crude oil and that has a viscosity of greater than 14 centistokes at 50°C;
- (o) “high heat value coal” means bituminous coal and any other coal with a heating value greater than 27 000 kJ per kg normalized to a prescribed moisture content;
- (p) “internal combustion engine” includes a turbine engine that generates power by the combustion of fuel;
- (q) “kerosene” means a light petroleum distillate that meets the requirements of National Standard of Canada CAN/CGSB 3.3 99, Kerosene, as amended from time to time, but does not include aviation fuel;
- (r) “locomotive diesel” means diesel fuel that is used to operate a railway locomotive or to provide heat or light to railway cars attached to a railway locomotive;
- (s) “low heat value coal” means sub-bituminous coal and any other coal with a heating value up to and including 27 000 kJ per kg normalized to a prescribed moisture content;
- (t) “methanol” has its normal scientific meaning but does not include methanol produced from biomass;
- (u) “naphtha” means a refined or partially refined petroleum fraction with an approximate boiling range between 50°C and 204°C;
- (v) “natural gas” means natural gas that has been processed to meet the specifications for pipeline transport and sale, whether or not the natural gas contains gas liquids, but does not include
 - (i) refinery gas, or
 - (ii) non-marketable gas or raw gas;
- (w) “pentanes plus/condensate” means a mixture mainly of pentanes and heavier hydrocarbons that ordinarily may contain some butanes and may be contaminated with sulphur and that is obtained from the production or processing of raw gas, condensate or crude oil;

- (x) “propane” means, in addition to its normal scientific meaning, a mixture of mainly propane that ordinarily may contain some ethane or butanes;
- (y) “raw gas” means natural gas that
 - (i) does not meet the specifications for pipeline transport and sale, and
 - (ii) is not moved
 - (A) to a gas processing plant from a gas battery, compressor station or oil battery, or
 - (B) from a gas processing plant to a transmission pipeline;
- (z) “refinery gas” means any form or mixture of fuel gases produced in oil refineries or upgraders as a result of distillation, cracking, reforming or other oil refining or upgrading processes;
- (aa) “refinery petroleum coke” means a carbonaceous solid produced from oil refinery coke units or other cracking processes, including coking, fluid coking, flexicoking and delayed coking, and includes coke referred to as “green” coke or “fuel grade” coke;
- (bb) “renewable diesel” means diesel that
 - (i) is produced from biomass feedstock, and
 - (ii) is suitable for blending with diesel for use in a diesel engine;
- (cc) “renewable gasoline” means a fuel that
 - (i) is produced from biomass feed stock, and
 - (ii) is suitable for blending with gasoline for use in a spark-ignition engine;
- (dd) “standard reference conditions” means,
 - (i) in the case of a gas, a temperature of 15°C and an atmospheric pressure of 101.325 kPa, and

(ii) in the case of a liquid, a temperature of 15°C;

(ee) “upgrader petroleum coke” means a carbonaceous solid produced from oil or bitumen upgrader coker units or other cracking processes, including coking, fluid coking, flexicoking and delayed coking.

(2) For the purpose of determining the amount of carbon levy payable on a fuel set out in the Table, when the carbon levy rate is based on litres, the carbon levy rate must be multiplied by the amount of liquid or gaseous fuels measured in litres at standard reference conditions.

(3) For the purpose of determining the amount of carbon levy payable on a fuel set out in the Table, when the carbon levy rate is based on cubic metres, the carbon levy rate must be multiplied by the amount of liquid or gaseous fuels measured in cubic metres at standard reference conditions.

(4) For the purpose of determining the amount of carbon levy payable on high heat value coal and low heat value coal, the carbon levy rate must be multiplied by the amount of fuel measured in tonnes normalized to

- (a) 19% moisture by weight in the case of low heat value coal, or
- (b) 7.7% moisture by weight in the case of high heat value coal.

(5) For the purpose of determining the amount of carbon levy payable on coal coke, refinery petroleum coke and upgrader petroleum coke, the carbon levy rate must be multiplied by the amount of fuel measured in tonnes normalized to the moisture content prescribed in the regulations.

(6) For the purpose of determining the amount of carbon levy payable on a fuel set out in the Table,

- (a) gas liquids are a separate fuel when the gas liquids are separated from natural gas or crude oil for the first time as a result of processing and have not been
 - (i) analyzed to assess the composition,
 - (ii) separated into ethane, propane, butane or pentanes plus as a result of processing, or

(iii) separated into ethane, propane, butane or pentanes plus as a result of processing and then remixed into a blend of one or more of the fuels,

and

(b) when the proportions of ethane, propane, butane, pentanes plus and other components present in the substance are known as a result of analysis or blending, the carbon levy is calculated in accordance with section 11 of this Act.

(7) The amount of carbon levy payable on renewable gasoline, renewable diesel or biomethane that is included in a fuel set out in the Table is computed at the same rate and in the same manner as the amount of carbon levy payable on the fuel that includes the renewable gasoline, renewable diesel or biomethane, unless section 11(2) or (3) of this Act applies to the fuel.

**Table
Carbon Levy Rates**

Type of Fuel	Carbon levy rate for 2017	Carbon levy rate for 2018 and subsequent years
Aviation gas	4.98 ¢/L	7.47 ¢/L
Aviation jet fuel	5.17 ¢/L	7.75 ¢/L
Bunker fuel	6.36 ¢/L	9.55 ¢/L
Butane	3.56 ¢/L	5.34 ¢/L
Coal coke	\$63.59 /tonne	\$95.39 /tonne
Coke oven gas	1.40 ¢/m ³	2.10 ¢/m ³
Diesel	5.35 ¢/L	8.03 ¢/L
Ethane	2.04 ¢/L	3.06 ¢/L
Gas liquids	3.33 ¢/L	4.99 ¢/L
Gasoline	4.49 ¢/L	6.73 ¢/L
Heating distillate oil	5.51 ¢/L	8.27 ¢/L
Heavy fuel oil	6.35 ¢/L	9.53 ¢/L
High heat value coal	\$44.37 /tonne	\$66.56 /tonne
Kerosene	5.14 ¢/L	7.71 ¢/L
Locomotive diesel	5.94 ¢/L	8.90 ¢/L
Low heat value coal	\$35.39 /tonne	\$53.09 /tonne
Methanol	2.18 ¢/L	3.26 ¢/L
Naphtha	4.49 ¢/L	6.73 ¢/L
Natural gas	\$1.011 /GJ	\$1.517 /GJ
Raw gas	\$1.15 /GJ	\$1.72 /GJ

Type of Fuel	Carbon levy rate for 2017	Carbon levy rate for 2018 and subsequent years
Pentanes plus/condensate	3.82 ¢/L	5.73 ¢/L
Propane	3.08 ¢/L	4.62 ¢/L
Refinery gas	3.77 ¢/m ³	5.65 ¢/m ³
Refinery petroleum coke	\$63.86 /tonne	\$95.79 /tonne
Upgrader petroleum coke	\$58.50 /tonne	\$87.75 /tonne

Schedule 2
ENERGY EFFICIENCY
ALBERTA ACT

Chapter E-9.7

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Definitions

1 In this Act,

- (a) “board” means the board of directors appointed under section 4;
- (b) “Corporation” means Energy Efficiency Alberta established by section 2;
- (c) “director” means a member of the board;
- (d) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

Establishment of Energy Efficiency Alberta

2(1) Energy Efficiency Alberta is established as a corporation.

(2) The mandate of the Corporation is

- (a) to raise awareness among energy consumers of energy use and the associated economic and environmental consequences,
- (b) to promote, design and deliver programs and carry out other activities related to energy efficiency, energy conservation and the development of micro-generation and small scale energy systems in Alberta, and
- (c) to promote the development of an energy efficiency services industry.

(3) The Corporation has the capacity and, subject to this Act and the regulations, the rights, powers and privileges of a natural person.

(4) The share capital of the Corporation consists of one share owned by the Crown.

(5) Subject to the regulations, the Corporation may, in carrying out its mandate, make grants, contributions or loans or issue loan guarantees.

(6) The Corporation shall maintain its head office and principal place of business in Alberta.

(7) The fiscal year of the Corporation is April 1 to the following March 31.

(8) The Auditor General is the auditor for the Corporation.

(9) The Lieutenant Governor in Council may make regulations

- (a) expanding or clarifying the mandate of or functions or duties to be carried out or performed by the Corporation;
- (b) imposing limits on the powers, functions or duties to be exercised, carried out or performed by the Corporation.

Crown agent

3(1) The Corporation is for all purposes an agent of the Crown in right of Alberta.

(2) An action or other legal proceeding in respect of a right or obligation acquired or incurred by the Corporation on behalf of the Crown in right of Alberta, whether in the name of the Corporation or in the name of the Crown in right of Alberta, may be brought by or taken against the Corporation in the name of the Corporation.

Board

4(1) The Corporation shall have a board of directors consisting of not fewer than 6 and not more than 10 members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall designate one of the directors as Chair and another as Vice-chair.

(3) A director may hold office for one or more terms but in no case may a person serve as a director for more than 10 consecutive years.

(4) A break in service of less than 2 years shall be disregarded in determining the number of consecutive years under subsection (3).

(5) A director ceases to hold office when

- (a) the director resigns,
- (b) the director's appointment expires,
- (c) the director's appointment is terminated by the Lieutenant Governor in Council, or
- (d) the director is disqualified under the regulations.

(6) Subject to the 10-year maximum established by subsection (3) and notwithstanding subsection (5)(b), a director continues to hold office after the expiry of the director's term until

- (a) the director is reappointed,
- (b) a successor is appointed, or
- (c) 3 months has elapsed since the expiry,

whichever occurs first.

(7) The Lieutenant Governor in Council may determine the remuneration and expenses payable to directors.

(8) If regulations under the *Alberta Public Agencies Governance Act* apply in respect of the remuneration or payment of expenses of members of the board, those regulations prevail, to the extent of any conflict or inconsistency, over any determination made under subsection (7).

Duties and functions of board

5(1) The board shall manage or supervise the management of the business and affairs of the Corporation.

(2) The board may delegate, on terms and conditions the board considers advisable, to a director, a committee of the board, the chief executive officer, any officer or employee of the Corporation or any other person any of the board's powers, duties and functions except

- (a) the power to appoint the chief executive officer under section 6,
- (b) the power to make bylaws under section 9, and
- (c) the power to approve business plans referred to in section 10.

Chief executive officer

6(1) The board may, with the approval of the Minister, appoint an individual, who must not be a member of the board, as the chief executive officer of the Corporation and determine the chief executive officer's powers, duties and functions.

(2) The board shall determine the remuneration to be paid to the chief executive officer in accordance with

- (a) any applicable regulations under the *Alberta Public Agencies Governance Act*, or
- (b) any directions from the Minister if no regulations under the *Alberta Public Agencies Governance Act* are applicable.

Responsibility of directors and officers

7 Every director and officer, in exercising powers and discharging duties,

- (a) shall act honestly and in good faith and with a view to the best interests of the Corporation, and
- (b) shall exercise the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances.

Indemnities

8(1) The Corporation may, subject to the regulations, indemnify

- (a) a present or former director or officer of the Corporation,
- (b) an individual who acts or acted at the Corporation's request as a director or officer, or in a similar capacity, of another entity, whether incorporated or unincorporated, of which the Corporation or the Crown is or was a direct or indirect security holder or creditor,
- (c) an employee or former employee of the Corporation, and
- (d) the heirs and legal representatives of a person referred to in clause (a), (b) or (c),

against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of holding such a position if that person acted honestly, in good faith and with a view to the best interests of the Corporation or, as the case may be, to the best interests of the other entity for which the individual acted as a director or officer or in a similar capacity at the Corporation's request, and in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, that person had reasonable grounds for believing that the conduct that is the subject of the action or proceeding was lawful.

(2) An indemnity under subsection (1) must be

- (a) in writing, and
- (b) authorized by a resolution of the board.

- (3) The Corporation shall not provide indemnities other than those
- (a) authorized by subsection (1), or
 - (b) provided in accordance with the regulations.

Bylaws

- 9(1)** The board may make bylaws respecting the business and affairs of the Corporation.
- (2) The board shall, forthwith after the making of a bylaw, provide a copy of the bylaw to the Minister.
- (3) A bylaw made under this section does not have effect until it is approved by the Minister.

Business plans

- 10** The Corporation shall annually complete and provide to the Minister, in a form and at a time determined by the Minister, a multi-year business plan approved by the board, which must include
- (a) the budget for the fiscal years to which the plan relates,
 - (b) the goals, objectives and targets for the fiscal years to which the plan relates, and
 - (c) any additional information requested by the Minister.

Reports, records and information

- 11** The Corporation shall, at such time as the Minister determines, submit to the Minister any reports, records or other information required by the Minister, including any information required for the purposes of a review of the Corporation.

Directives

- 12** The Minister may issue directives that must be followed by the Corporation, the board, or both, in carrying out their powers and duties under this Act and the regulations.

Complying with directives

13(1) In this section, “directive” means

- (a) a directive issued under section 12,
- (b) a directive issued by Treasury Board pursuant to the *Financial Administration Act*,
- (c) a policy set pursuant to section 10 of the *Alberta Public Agencies Governance Act*, and
- (d) any other directive or direction issued under another enactment.

(2) The board shall ensure that any directive issued to or required to be followed by the board, and the Corporation shall ensure that any directive issued to or required to be followed by the Corporation, is implemented in a prompt and efficient manner and in accordance with section 7(b), and compliance by the board or the Corporation, as the case may be, with any directive is deemed to be in compliance with section 7(a).

Regulations

14 The Lieutenant Governor in Council may make regulations

- (a) respecting appointments to the board, including eligibility and qualifications for appointment, and the disqualification of directors;
- (b) respecting the making of grants, contributions or loans by the Corporation and the issuing of loan guarantees by the Corporation under section 2(5);
- (c) respecting the giving of indemnities by the Corporation under section 8 and any terms and conditions applicable to those indemnities;
- (d) respecting the collection, use and disclosure of information, including personal information, by the Corporation;
- (e) respecting generally the operation of the Corporation;
- (f) respecting the dissolution and winding-up of the Corporation;

- (g) defining for the purposes of this Act any term or expression that is used but not defined in this Act;
- (h) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the purposes of this Act.

Coming into force

15 This Act comes into force on Proclamation.

Schedule 3

AMENDMENTS TO VARIOUS ACTS

Alberta Corporate Tax Act

Amends RSA 2000 cA-15

1 The *Alberta Corporate Tax Act* is amended by this Act.

2 Section 22 is amended

(a) in subsection (2.1294)(c) by adding “and before January 1, 2017” after “June 30, 2015”;

(b) by adding the following after subsection (2.1294):

(2.1295) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2016 by a corporation that was, throughout the year, a Canadian-controlled private corporation an amount equal to the product obtained by the multiplication of the following:

(a) the small business allocation factor for the year;

(b) 10%;

(c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2016 bears to the number of days in the year:

(i) the amount determined under subsection (2)(a);

(ii) the amount determined under subsection (2)(b);

(iii) the corporation’s business limit for the year.

(c) in subsection (2.2) by striking out “and (2.1294)” and substituting “, (2.1294) and (2.1295)”.

Explanatory Notes

Alberta Corporate Tax Act

1 Amends chapter A-15 of the Revised Statutes of Alberta 2000.

2 Section 22(2.1294) and (2.2) presently read:

(2.1294) There may be deducted from the tax payable under section 21 for a taxation year ending after June 30, 2015 by a corporation that was, throughout the year, a Canadian-controlled private corporation an amount equal to the product obtained by the multiplication of the following:

- (a) the small business allocation factor for the year;*
- (b) 9.0%;*
- (c) the proportion of the least of the following amounts that the number of days in the year after June 30, 2015 bears to the number of days in the year:*
 - (i) the amount determined under subsection (2)(a);*
 - (ii) the amount determined under subsection (2)(b);*
 - (iii) the corporation's business limit for the year.*

(2.2) For the purposes of subsections (2), (2.11), (2.12), (2.121), (2.122), (2.123), (2.124), (2.125), (2.126), (2.127), (2.128), (2.129), (2.1291), (2.1292) and (2.1294), the "small business allocation factor" is the Alberta allocation factor that would be determined if, during the taxation year, the corporation had no permanent establishment in a country other than Canada.

Alberta Personal Income Tax Act

Amends RSA 2000 cA-30

3(1) The *Alberta Personal Income Tax Act* is amended by this section.

(2) Section 1(1)(r) is repealed and the following is substituted:

- (r) “refundable tax credit” means a tax credit under Part 1, Division 4 or a rebate under Part 1, Division 4.2;

(3) The following is added before Part 1, Division 5:

Division 4.2 Alberta Climate Leadership Adjustment Rebate

Application of Division

35.2 This Division applies to payments deemed under section 35.3(3) to have been paid in a specified month in 2017 and subsequent years.

Eligibility and calculation of rebate

35.3(1) In this section,

- (a) “eligible individual”, in relation to a month specified for a taxation year, means an individual, other than a trust,
 - (i) who
 - (A) has, before the specified month, attained the age of 18 years, or
 - (B) was, at any time before the specified month,
 - (I) a parent who resided with his or her child, or
 - (II) married or in a common-law partnership,
 - and
 - (ii) who was resident in Alberta on the first day of the specified month and the preceding specified month;

**Alberta Personal
Income Tax Act**

3(1) Amends chapter A-30 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(r) presently reads:

1(1) In this Act,

(r) “refundable tax credit” means a tax credit under Part 1, Division 4 or Division 4.1;

(3) Adds Division 4.2, Alberta Climate Leadership Adjustment Rebate.

- (b) “qualified dependant” of an individual, in relation to a month specified for a taxation year, means a person who at the beginning of the specified month
- (i) is the individual’s child or is dependent for support on the individual or on the individual’s cohabiting spouse or common-law partner,
 - (ii) resides with the individual,
 - (iii) is under the age of 18 years,
 - (iv) is not an eligible individual in relation to the specified month, and
 - (v) is not a qualified relation of any individual in relation to the specified month.

(2) Section 122.5 of the federal Act, except for subsections (3), (3.1) and (3.2) and the definitions of “eligible individual” and “qualified dependant” in subsection (1), applies for the purposes of this section in relation to a month specified for a taxation year.

(3) If, in relation to a month specified for a taxation year, an eligible individual files a return of income for the taxation year, the eligible individual is deemed to have paid during the specified month, on account of the eligible individual’s tax payable under this Act for the taxation year, an amount equal to 25% of the amount, if any, determined by the following formula:

$$A - B$$

where

A is the total of the following:

- (a) \$200;
- (b) \$100, if the individual has in relation to the specified month
 - (i) a qualified relation, or
 - (ii) if the individual has no qualified relation in relation to the specified month and is entitled to deduct an amount for the taxation year under subsection 118(1) of the federal Act because of

paragraph (b) of the description of “B” in that subsection in respect of a qualified dependant of the individual in relation to the specified month;

- (c) \$30 for each qualified dependant, not to exceed 4, of the individual in relation to the specified month, other than a qualified dependant in respect of whom an amount is included under clause (b) in computing the total for the specified month;

B is

- (a) if the individual has no qualified relation or qualified dependant in relation to the specified month, the lesser of the amount determined under A and 2.67% of the amount by which the individual’s adjusted income for the taxation year in relation to the specified month exceeds \$47 500, or
- (b) if the amount determined for the individual under A includes an amount pursuant to clause (b) or (c), the lesser of the amount determined under A and 4.0% of the amount by which the sum of the adjusted incomes of the individual and the qualified relation or qualified dependants for the taxation year in relation to the specified month exceeds \$95 000.

(4) Effective January 1, 2018, for a month specified for a taxation year, the amounts in the description of A in the formula in subsection (3) are to be read as follows:

- (a) in clause (a), “\$200” is to be read as “\$300”;
- (b) in clause (b), “\$100” is to be read as “\$150”;
- (c) in clause (c), “\$30” is to be read as “\$45”.

(5) The amount deemed to have been paid by an eligible individual for a taxation year is nil where the total amount that would otherwise be deemed by subsection (3) to have been paid on account of the eligible individual’s tax payable under this Act for the months specified for the taxation year is less than \$100.

(6) Despite subsection 122.5(5) of the federal Act as it applies for the purposes of this Act, the individual who is the eligible individual in relation to a specified month under subsection

122.5(5) of the federal Act as it applies for the purposes of that Act is the individual who is the eligible individual, in relation to that specified month, for the purposes of this section.

(7) Despite subsection 122.5(6) of the federal Act as it applies for the purposes of this Act, a person who is the qualified dependant of an individual, in relation to a specified month, under subsection 122.5(6) of the federal Act as it applies for the purposes of that Act is the qualified dependant of that individual, in relation to that specified month, for the purposes of this section.

(8) In applying subsection 122.5(6.1) of the federal Act for the purposes of this section, the reference in paragraph (c) to “19” is to be read as “18”.

(9) In applying subsection 122.5(6.1) of the federal Act for the purposes of this section, that section must be read as including the following paragraph:

(d) an individual becomes or ceases to be resident in Alberta.

(10) The Lieutenant Governor in Council may make regulations

(a) specifying, with or without modifications, additional provisions of the federal Act that apply in respect of a deemed payment under subsection (3);

(b) establishing rules to determine if an individual was resident in Alberta for the purposes of subsection (1)(a)(ii).

Climate Change and Emissions Management Act

Amends SA 2003 cC-16.7

4(1) The *Climate Change and Emissions Management Act* is amended by this section.

(2) Section 10 is amended

(a) by adding the following before subsection (1):

**Climate Change and
Emissions Management Act**

4(1) Amends chapter C-16.7 of the Statutes of Alberta, 2003.

(2) Section 10 presently reads in part:

(3) The Fund may be used only for purposes related to reducing emissions of specified gases or improving Alberta's ability to adapt to climate change, including, without limitation, the following purposes:

(0.1) In this section,

- (a) “Independent System Operator” means the Independent System Operator as defined in the *Electric Utilities Act*;
- (b) “Provincial corporation” means a Provincial corporation as defined in the *Financial Administration Act*.

(b) in subsection (3)

(i) by striking out “improving” and substituting “supporting”;

(ii) by adding the following after clause (g):

- (g.1) education initiatives, including education programs, research programs and scholarships;
- (g.2) outreach initiatives, including initiatives to provide information to stakeholders and the public;
- (g.3) reimbursing salaries, fees, expenses, liabilities or other costs incurred by the Government in respect of activities or functions related to reducing emissions of specified gases or supporting Alberta’s ability to adapt to climate change;
- (g.4) funding salaries, fees, expenses, liabilities or other costs incurred by a Provincial corporation or the Independent System Operator in respect of activities or functions related to reducing emissions of specified gases or supporting Alberta’s ability to adapt to climate change;

(iii) in clause (h) by striking out “paying” and substituting “funding”;

(c) in subsection (5)(a) by striking out “section 5(f)” and substituting “section 5(g)”.

- (a) *energy conservation and energy efficiency;*
 - (b) *demonstration and use of new technologies that emphasize reductions in specified gas emissions in the discovery, recovery, processing, transportation and use of Alberta's energy resources;*
 - (c) *demonstration and use of new technologies that emphasize reductions in specified gas emissions through the use of alternative energy and renewable energy sources;*
 - (d) *demonstration and use of specified gas capture, use and storage technology;*
 - (e) *development of opportunities for removal of specified gases from the atmosphere through sequestration by sinks;*
 - (f) *measurement of the natural removal and storage of carbon;*
 - (g) *climate change adaptation programs and measures;*
 - (h) *paying salaries, fees, expenses, liabilities or other costs incurred by a delegated authority in carrying out a duty or function of or exercising a power of the Minister in respect of the Fund that has been delegated to the delegated authority, if authorized by the regulations.*
- (5) *The following shall be paid into the Fund:*
- (a) *money required to be paid into the Fund pursuant to the terms of a sectoral agreement entered into pursuant to section 4 or pursuant to regulations under section 5(f);*

(3) Section 60(1)(y) is amended by striking out “delegating” and substituting “delegation”.

(3) Section 60(1) presently reads in part:

60(1) The Lieutenant Governor in Council may make regulations

(y) respecting, in regard to the delegation of authority and with necessary modifications, any matter in respect of which the Lieutenant Governor in Council may make regulations under section 2 of Schedule 10 to the Government Organization Act in regard to a delegating under that Schedule;

