



Australian Centre for Renewable Energy Act 2010

No. 18, 2010

**An Act to establish the Australian Centre for
Renewable Energy Board, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 18, 2010

An Act to establish the Australian Centre for Renewable Energy Board, and for related purposes

[Assented to 24 March 2010]

The Parliament of Australia enacts:

Australian Centre for Renewable Energy Act 2010 No. 18, 2010 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian Centre for Renewable Energy Act 2010*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Definitions

In this Act:

appointed member means a member of the Board appointed under section 8, and includes the Chair.

Board means the Australian Centre for Renewable Energy Board established by section 4.

CEO means the person who occupies the position of Chief Executive Officer of the Australian Centre for Renewable Energy.

Chair means the Chair of the Board.

member means a member of the Board.

renewable energy technologies includes associated enabling technologies.

Secretary means the Secretary of the Department.

Part 2—The Australian Centre for Renewable Energy Board

Division 1—Establishment and functions of the Board

4 Establishment

The Australian Centre for Renewable Energy Board is established by this section.

5 Functions

- (1) The functions of the Board are:
- (a) to provide advice to the Minister in relation to renewable energy technologies, including advice in relation to the following:
 - (i) strategies to fund and promote the development, commercialisation and use of renewable energy technologies;
 - (ii) the funding of renewable energy technology projects and measures;
 - (iii) the management of renewable energy technology programs;
 - (iv) improving existing program delivery;
 - (v) the provision of venture capital funding;
 - (vi) priority areas for government support;
 - (vii) establishing links with state and territory government agencies and the private sector with a view to developing strategies for stimulating investment in renewable energy technologies; and
 - (b) to assess renewable energy technology projects and measures for the purposes of providing advice under subparagraph (a)(ii); and
 - (c) any other functions that the Minister, by writing, directs the Board to perform.

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- (2) A direction under paragraph (1)(c) is not a legislative instrument.

6 Minister may give directions to the Board

- (1) The Minister may give written directions to the Board about the performance of its functions.
- (2) Directions given by the Minister under subsection (1) must be of a general nature only.
- (3) The Minister must not give directions about the content of any advice that may be given by the Board.
- (4) The Board must comply with a direction given by the Minister under subsection (1).
- (5) A direction under subsection (1) is not a legislative instrument.

Division 2—Members of the Board

7 Membership

The Board consists of the following members:

- (a) the Chair;
- (b) up to 6 other appointed members;
- (c) the CEO.

Note: Section 18B of the *Acts Interpretation Act 1901* deals with the title of the Chair.

8 Appointment of members

- (1) Members of the Board (other than the CEO) are to be appointed:
 - (a) by the Minister by written instrument; and
 - (b) on a part-time basis.
- (2) In making appointments, the Minister must ensure:
 - (a) that he or she is satisfied that each member has knowledge of, or experience in, a field relevant to the Board's functions; and
 - (b) to the extent possible—that the members of the Board have, between them, experience in the following areas:
 - (i) finance, economics, law and project management;
 - (ii) the energy industry and energy markets;
 - (iii) technical development, science or engineering;
 - (iv) administration and program management.

9 Term of appointment

An appointed member holds office for the period specified in the instrument of appointment. The period must not exceed 2 years.

Note: A member is eligible for reappointment: see subsection 33(4A) of the *Acts Interpretation Act 1901*.

Section 10

10 Acting appointments

- (1) The Minister may appoint a member to act as the Chair:
 - (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (2) The Minister may appoint a person to act as an appointed member:
 - (a) during a vacancy in the office of a member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a member is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: Section 33A of the *Acts Interpretation Act 1901* has rules that apply to acting appointments.

- (3) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

11 Remuneration

- (1) An appointed member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by the regulations.
- (2) An appointed member is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

12 Leave of absence

Chair

- (1) The Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.

Other members

- (2) The Chair may grant leave of absence to any other appointed member on the terms and conditions that the Chair determines.
- (3) The Chair must notify the Minister if the Chair grants to a member leave of absence for a period that exceeds 6 months.

13 Disclosure of interests to the Minister

A member must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

14 Disclosure of interests to the Board

- (1) A member who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Board must disclose the nature of the interest to a meeting of the Board.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of the Board.
- (4) Unless the Board otherwise determines, the member:
 - (a) must not be present during any deliberation by the Board on the matter; and
 - (b) must not take part in any decision of the Board with respect to the matter.
- (5) For the purposes of making a determination under subsection (4), the member:

Section 15

- (a) must not be present during any deliberation of the Board for the purpose of making the determination; and
 - (b) must not take part in making the determination.
- (6) A determination under subsection (4) must be recorded in the minutes of the meeting of the Board.

15 Other terms and conditions

An appointed member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

16 Resignation of members

- (1) An appointed member may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

17 Termination of appointment

- (1) The Minister may terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of an appointed member if:
 - (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
 - (c) the member fails, without reasonable excuse, to comply with section 13 or 14 (disclosure of interests).

Section 17

- (3) The Minister may terminate the appointment of an appointed member if he or she is satisfied that the member's performance has been unsatisfactory for a significant period of time.

Division 3—Meetings of the Board

18 Convening meetings

- (1) The Board must hold the meetings that are necessary for the efficient performance of its functions.
- (2) Meetings are to be held at the times and places that the Board determines.

Note: See also section 33B of the *Acts Interpretation Act 1901*, which contains extra rules about meetings by telephone etc.

- (3) The Chair:
 - (a) may convene a meeting; and
 - (b) must convene at least 4 meetings each calendar year; and
 - (c) must convene a meeting if requested in writing by:
 - (i) 3 or more other members; or
 - (ii) the Minister.

19 Presiding at meetings

- (1) The Chair must preside at all meetings at which he or she is present.
- (2) If the Chair is not present at a meeting, the other members present must appoint a member to preside.

20 Quorum

- (1) At a meeting of the Board, a quorum is constituted by a majority of the current members.
- (2) However, if:
 - (a) section 14 prevents a member from participating in the deliberations or decisions of the Board with respect to a particular matter; and
 - (b) when the member leaves the meeting concerned there is no longer a quorum present;

Section 21

the remaining members at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

21 Voting at meetings

- (1) A question arising at a meeting is to be determined by a majority of the votes of the members present and voting.
- (2) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

22 Conduct of meetings

The Board may regulate proceedings at its meetings as it considers appropriate.

23 Minutes

The Board must keep minutes of its meetings.

24 Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the members entitled to vote on the proposed decision indicate agreement with the decision; and
 - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (2); and
 - (c) all the members were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.
- (2) Subsection (1) applies only if the Board:
 - (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which members are to indicate agreement with proposed decisions.

Section 24

- (3) For the purposes of paragraph (1)(a), a member is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Board.
- (4) The Board must keep a record of decisions made in accordance with this section.

Division 4—Reports

25 Annual reports

- (1) The Board must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on its operations during that year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) The Board must include in the report details of any written directions given to it by the Minister under subsection 6(1) during the year.

Section 26

Part 3—Chief Executive Officer, staff and consultants

26 Chief Executive Officer

- (1) The Secretary must, by writing, designate a position in the Department as the position of Chief Executive Officer of the Australian Centre for Renewable Energy.

Note: For creation of positions, see section 77 of the *Public Service Act 1999*.

- (2) The position of Chief Executive Officer of the Australian Centre for Renewable Energy can only be occupied by an SES employee.
- (3) An instrument under subsection (1) is not a legislative instrument.

27 Staff and consultants

- (1) The staff required to assist the Board are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.
- (2) The Board may also be assisted by consultants, or other persons, engaged by the Commonwealth.

Part 4—Miscellaneous

28 Delegation

- (1) The Minister may, by writing, delegate any or all of his or her functions and powers under this Act, other than a function or power under paragraph 5(1)(c) or section 6, 8, 10, 12, 15 or 17, to:
 - (a) the Secretary of the Department; or
 - (b) the CEO or another SES employee, or acting SES employee, in the Department.
- (2) In exercising functions or powers delegated under subsection (1), the delegate must comply with any directions of the Minister.

29 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 18 November 2009
Senate on 26 November 2009]*