



Clean Energy Finance Corporation Act 2012

No. 104, 2012

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About this compilation

This compilation

This is a compilation of the *Clean Energy Finance Corporation Act 2012* that shows the text of the law as amended and in force on 14 September 2022 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish the Clean Energy Finance Corporation, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Clean Energy Finance Corporation Act 2012*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|--|--|------------------------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 22 July 2012 |
| 2. Sections 3 to 82 | A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period. | 3 August 2012 (see F2012L01643) |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

Section 3

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Object

The object of this Act is to establish the Clean Energy Finance Corporation to facilitate increased flows of finance into the clean energy sector and to facilitate the achievement of Australia's greenhouse gas emissions reduction targets.

4 Definitions

In this Act:

Account means the Clean Energy Finance Corporation Special Account established by section 45.

acquire includes acquire by way of issue.

ARENA means the Australian Renewable Energy Agency.

asset means:

- (a) any kind of real or personal property; or
- (b) any legal or equitable estate or interest in real or personal property; or
- (c) any legal or equitable right.

Australia, when used in a geographical sense, includes the external Territories.

Australia's greenhouse gas emissions reduction targets means:

- (a) if:
 - (i) Australia's current nationally determined contribution was communicated in accordance with Article 4 of the Paris Agreement in June 2022; and
 - (ii) that nationally determined contribution has not been adjusted in accordance with paragraph 11 of Article 4 of the Paris Agreement;

the greenhouse gas emissions reduction targets set out in paragraphs 10(1)(a) and (b) of the *Climate Change Act 2022*; or

- (b) in any other case—the greenhouse gas emissions reduction targets included in:
- (i) Australia's current nationally determined contribution communicated in accordance with Article 4 of the Paris Agreement; or
 - (ii) if that nationally determined contribution has been adjusted in accordance with paragraph 11 of Article 4 of the Paris Agreement—that nationally determined contribution, as adjusted and in force from time to time.

Board means the Board of the Corporation.

Board member means a member of the Board (and includes the Chair).

CEO means the Chief Executive Officer of the Corporation.

Chair means the Chair of the Board.

clean energy technologies: see section 60.

Climate Change Convention means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, as amended and in force for Australia from time to time.

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 2 ([1994] ATS 2). In 2012, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

complying investment: see subsection 59(2).

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

Corporation means the Clean Energy Finance Corporation established by section 8.

Section 4

Corporation official: see subsection 75(3).

Corporation's money: see section 53.

derivative means a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001*) that is a financial asset.

energy efficiency technologies: see section 60.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

financial asset: see section 63.

GFS Australia means the publication of the Australian Bureau of Statistics known as Australian System of Government Finance Statistics: Concepts, Sources and Methods, as updated from time to time. This updating takes 2 forms:

- (a) from time to time, a new version of the publication is produced; and
- (b) from time to time, material in the current version of the publication is updated by other publications of the Australian Bureau of Statistics.

GFS system has the same meaning as in GFS Australia.

investment:

- (a) means any mode of application of money or financial assets for the purpose of gaining a return (whether by way of income, capital gain or any other form of return); and
- (b) includes giving a guarantee.

investment function: see subsection 58(1).

Investment Mandate: see section 64.

low-emission technology: see section 60.

nominated Minister: see section 76.

official information: see subsection 75(3).

Section 4

operating balance means the amount agreed under paragraph 52(c) to be the operating balance.

Paris Agreement means the Paris Agreement, done at Paris on 12 December 2015, as amended and in force for Australia from time to time.

Note: The Agreement is in Australian Treaty Series 2016 No. 24 ([2016] ATS 24) and could in 2022 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

person includes a partnership.

Note: See also subsection 2C(1) of the *Acts Interpretation Act 1901*.

prohibited technology: see section 62.

quarter: see subsection 72(2).

realise includes redeem or dispose of.

renewable energy technologies: see section 60.

responsible Ministers means:

- (a) the Treasurer; and
- (b) the Finance Minister.

section 63 investment: see subsection 63(1).

solely or mainly Australian-based: see section 61.

subsidiary of the Corporation means a subsidiary of the Corporation for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

surplus money: see subsection 54(2).

uncommitted balance, of the Account, at any time means the amount standing to the credit of the Account at that time less the total, at that time, of the Corporation's liabilities (whether actual or contingent) in respect of guarantees given by the Corporation and still in effect.

Section 5

vacancy, in relation to the office of a Board member, has a meaning affected by subsection 19(4).

wholly-owned subsidiary of the Corporation means a subsidiary of the Corporation none of whose members is a person other than:

- (a) the Corporation; or
- (b) a nominee of the Corporation; or
- (c) a subsidiary of the Corporation, being a subsidiary none of whose members is a person other than:
 - (i) the Corporation; or
 - (ii) a nominee of the Corporation; or
- (d) a nominee of such a subsidiary.

5 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

6 Extension to external Territories

This Act extends to every external Territory.

7 Extra-territorial application

This Act extends to acts, omissions, matters and things outside Australia.

Part 2—Clean Energy Finance Corporation

8 Establishment

- (1) The Clean Energy Finance Corporation (the *Corporation*) is established by this section.
- (2) The Corporation:
 - (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may sue and be sued.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Corporation. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) The Corporation's seal is to be kept in such custody as the Board directs and must not be used except as authorised by the Board.
- (4) All courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the seal of the Corporation appearing on a document; and
 - (b) presume that the document was duly sealed.

9 Corporation's functions

- (1) The Corporation has the following functions:
 - (a) its investment function (see subsection 58(1));
 - (b) to liaise with relevant persons and bodies, including ARENA, the Clean Energy Regulator, other Commonwealth agencies and State and Territory governments, for the purposes of facilitating its investment function;
 - (c) any other functions conferred on the Corporation by this Act or any other Commonwealth law;
 - (d) to do anything incidental or conducive to the performance of the above functions.

Section 10

- (2) In performing its functions, the Corporation must act in a proper, efficient and effective manner.

10 Constitutional limits

- (1) The Corporation may perform its functions only in accordance with this section.

Main constitutional basis

- (2) The Corporation may perform its functions with respect to external affairs, including:
- (a) to give effect to the Climate Change Convention and the Paris Agreement, including by investing in clean energy technologies that could reasonably be expected to control, reduce or prevent anthropogenic emissions of greenhouse gases; and
 - (b) to give effect to another international agreement to which Australia is a party; and
 - (c) by way of performing its functions in a place outside Australia.

Other constitutional bases

- (3) In addition, the Corporation may perform its functions:
- (a) with respect to:
 - (i) investing in constitutional corporations, or projects undertaken by constitutional corporations, for the purposes of the development or commercialisation of clean energy technologies; or
 - (ii) investing in the use of clean energy technologies by constitutional corporations; or
 - (iii) investing in constitutional corporations that supply goods or services needed to develop or commercialise, or needed for use in, clean energy technologies; or
 - (b) with respect to trade or commerce:
 - (i) between Australia and places outside Australia; or

- (ii) among the States; or
- (iii) within a Territory, between a State and a Territory or between 2 Territories; or
- (c) with respect to the provision of a service, or financial assistance, to:
 - (i) the Commonwealth; or
 - (ii) an authority of the Commonwealth; for a purpose of the Commonwealth; or
- (d) with respect to a Territory; or
- (e) with respect to activities that are peculiarly adapted to the government of a nation and cannot otherwise be carried on for the benefit of the nation; or
- (f) with respect to the executive power of the Commonwealth; or
- (g) with respect to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

Meaning of terms

- (4) A term used in this section and the Constitution has the same meaning in this section as it has in the Constitution.

11 Corporation's powers

- (1) The Corporation has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The powers of the Corporation may be exercised within or outside Australia.

12 Corporation does not have privileges and immunities of the Crown

The Corporation does not have the privileges and immunities of the Crown in right of the Commonwealth.

Part 3—Board of Corporation

Division 1—Establishment and functions

13 Establishment

There is to be a Board of the Corporation.

14 Functions of the Board

- (1) The functions of the Board are:
 - (a) to decide strategies and policies to be followed by the Corporation; and
 - (b) to ensure the proper, efficient and effective performance of the Corporation's functions; and
 - (c) any other functions conferred on the Board by this Act.
- (2) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (3) Anything done in the name of, or on behalf of, the Corporation by the Board, or with the authority of the Board, is taken to have been done by the Corporation.

Division 2—Board Members

15 Membership

The Board consists of:

- (a) the Chair; and
- (b) at least 4, and no more than 6, other members.

16 Appointment of Board members

- (1) Board members are to be appointed:
 - (a) by the responsible Ministers by written instrument; and
 - (b) on a part-time basis.
- (2) A person is not eligible for appointment as a Board member unless the responsible Ministers are satisfied that the person has:
 - (a) substantial experience or expertise; and
 - (b) professional credibility and significant standing;in at least one of the following fields:
 - (c) banking and finance;
 - (d) venture capital, private equity or investment by way of lending or provision of credit;
 - (e) economics;
 - (f) engineering;
 - (g) energy technologies;
 - (h) government funding programs or bodies;
 - (i) the environmental sector;
 - (j) financial accounting;
 - (k) law.
- (3) The following persons are not eligible for appointment as a Board member:
 - (a) an employee of the Commonwealth;
 - (b) the holder of a full-time office under a law of the Commonwealth.

Section 17

17 Chair

The responsible Ministers must, by writing, appoint one Board member to be the Chair.

18 Term of appointment

A Board member holds office for the period specified in the instrument of appointment. The period must not be more than 5 years.

Note: A Board member is eligible for reappointment: see section 33AA of the *Acts Interpretation Act 1901*.

19 Acting appointments

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

Note: Sections 33AB and 33A of the *Acts Interpretation Act 1901* have rules that apply to acting appointments.

- (3) A person is not eligible for appointment to act as a Board member unless the person is eligible for appointment as a Board member under section 16.
- (4) For the purposes of a reference in:
 - (a) this Act to a ***vacancy*** in the office of a Board member; or
 - (b) the *Acts Interpretation Act 1901* to a ***vacancy*** in the membership of a body;there are taken to be 6 Board member offices in addition to the Chair.

20 Remuneration

- (1) A Board 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) A Board 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*.

21 Leave of absence

Chair

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

Other Board members

- (2) The Chair may grant leave of absence to another Board member on the terms and conditions that the Chair determines.
- (3) The Chair must notify the responsible Ministers if the Chair grants a Board member leave of absence for a period that exceeds 3 months.

Section 22

22 Resignation of Board members

- (1) A Board member may resign his or her appointment by giving the responsible Ministers a written resignation.
- (2) The resignation takes effect on:
 - (a) the day it is received by the responsible Ministers (or if the Ministers receive it on different days, the later of those days); or
 - (b) if a later day is specified in the resignation—on that later day.

23 Termination of appointment of Board members

The responsible Ministers may terminate the appointment of a Board member:

- (a) for misbehaviour; or
- (b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity; or
- (c) if 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
- (d) if the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
- (f) if the responsible Ministers are satisfied that the performance of the Board member has been unsatisfactory for a significant period.

Note: The appointment of a Board member may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

24 Other terms and conditions of Board members

A Board member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the responsible Ministers.

Division 3—Meetings of the Board

25 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 6 meetings each calendar year; and
 - (c) must convene a meeting within 30 days of receiving a written request to do so from another Board member.

26 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 Board members present must appoint one of themselves to preside.

27 Quorum

- (1) At a meeting of the Board, a quorum is constituted by:
 - (a) 4 Board members; or
 - (b) at any time when there are only 5 Board members—3 Board members.
- (2) However, if:
 - (a) a Board member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the

deliberations, or to take part in any decision, 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;

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.

28 Voting at meetings

- (1) A question arising at a meeting is to be determined by a majority of the votes of the Board 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.

29 Conduct of meetings

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

30 Minutes

The Board must keep minutes of its meetings.

31 Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the Board 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 Board 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:

Section 31

- (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which Board members are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a Board 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.

Part 4—Chief Executive Officer, staff and consultants and committees

Division 1—Chief Executive Officer of Corporation

32 Establishment

There is to be a Chief Executive Officer of the Corporation.

33 Functions of the CEO

- (1) The CEO is responsible for the day-to-day administration of the Corporation.
- (2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of his or her duties.
- (3) The CEO is to act in accordance with policies determined by the Board.
- (4) The Board may give written directions to the CEO about the performance of the CEO's responsibilities.
- (5) The CEO must comply with a direction under subsection (4).
- (6) A direction under subsection (4) is not a legislative instrument.

34 Appointment

- (1) The CEO is to be appointed by the Board after consultation with the responsible Ministers.
- (2) The CEO is to be appointed:
 - (a) by written instrument; and
 - (b) on a full-time basis.
- (4) The CEO must not be a Board member.

Section 35

- (5) The Board must appoint the first CEO no later than 6 months after the commencement of this section.

35 CEO holds office during Board's pleasure

- (1) The CEO holds office during the Board's pleasure.
- (2) The Chair must consult with the responsible Ministers before the Board terminates the appointment of the CEO.
- (3) The Chair must notify the responsible Ministers if the Board terminates the appointment of the CEO.

36 Acting appointments

The Board may, by written instrument and after consultation with the responsible Ministers, appoint a person (other than a Board member) to act as the CEO:

- (a) during a vacancy in the office of the CEO (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the CEO:
- (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: Sections 33AB and 33A of the *Acts Interpretation Act 1901* have rules that apply to acting appointments.

37 Terms and conditions

The CEO holds office on the terms and conditions (including terms and conditions relating to remuneration and allowances) in relation to matters not covered by this Act that are determined by the Board.

38 Outside employment

- (1) The CEO must not engage in paid employment outside the duties of his or her office without the Chair's approval.

- (2) The Chair must notify the responsible Ministers of any approval given under subsection (1).

39 Disclosure of interests

- (1) A disclosure by the CEO under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Board.
- (2) Subsection (1) applies in addition to any rules made for the purposes of that section.
- (3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the CEO is taken not to have complied with section 29 of that Act if the CEO does not comply with subsection (1) of this section.

40 Resignation

- (1) The CEO may resign his or her appointment by giving the Chair a written resignation.
- (2) The resignation takes effect on the day it is received by the Chair or, if a later day is specified in the resignation, on that later day.
- (3) The Chair must notify the responsible Ministers of the CEO's resignation.

Division 2—Staff and consultants

41 Staff

- (1) The Corporation may employ such persons as it considers necessary for the performance of its functions and the exercise of its powers.
- (2) An employee is to be employed on the terms and conditions that the Corporation determines in writing.
- (3) The Corporation may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*) or with a body established for a public purpose by a law of the Commonwealth for the services of officers or employees of the Agency or body to be made available to the Corporation.
- (4) The Corporation may enter into an arrangement with the appropriate authority of a State or Territory for the services of officers or employees of the Public Service of the State or Territory, or of a State or Territory statutory authority, to be made available to the Corporation.

42 Consultants

- (1) The Corporation may engage consultants to assist in the performance of its functions.
- (2) The consultants are to be engaged on the terms and conditions that the Corporation determines.

Division 3—Committees

43 Committees

- (1) The Board may establish committees to advise or assist in the performance of the Board's or the Corporation's functions.
- (2) A committee may be constituted:
 - (a) wholly by Board members; or
 - (b) wholly by persons who are not Board members; or
 - (c) partly by Board members and partly by other persons.
- (3) The Board may determine, in relation to a committee established under this section:
 - (a) the committee's terms of reference; and
 - (b) the terms and conditions of appointment of the members of the committee; and
 - (c) the procedures to be followed by the committee.

44 Remuneration and allowances

- (1) If the Board decides that a committee member who is also a Board member is to be remunerated in relation to his or her committee membership, the committee 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 committee member is to be paid the remuneration that is prescribed by the regulations.
- (2) A committee member who is a Board member is to be paid the allowances that are prescribed by the regulations.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.
- (4) If the Board decides that a committee member other than a Board member is to be remunerated, the committee member is to be paid

Section 44

the remuneration and allowances determined by the Corporation in writing.

Part 5—Financial arrangements

Division 1—Clean Energy Finance Corporation Special Account

Subdivision A—Establishment of Account

45 Establishment of Account

- (1) The Clean Energy Finance Corporation Special Account is established by this section.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Subdivision B—Credits

46 Credits to the Account

There must be credited to the Account amounts equal to the following:

- (a) \$2 billion, to be credited on 1 July 2013;
- (b) \$2 billion, to be credited on 1 July 2014;
- (c) \$2 billion, to be credited on 1 July 2015;
- (d) \$2 billion, to be credited on 1 July 2016;
- (e) \$2 billion, to be credited on 1 July 2017;
- (f) amounts paid to the Commonwealth under section 54.

Subdivision C—Debits

47 Purposes of the Account

The purposes of the Account are as follows:

Section 48

- (a) to make payments to the Corporation, so long as the payments are authorised by the nominated Minister under subsection 49(1);
- (b) to make payments to ARENA, so long as the payments are authorised by the nominated Minister under subsection 51(1).

48 Corporation's request for a payment for itself

- (1) The Corporation may request a payment by the Commonwealth of a specified amount:
 - (a) to meet liabilities or expenses of the Corporation:
 - (i) that are already due; or
 - (ii) that will, or that are expected to, become due during the period specified in the request; or
 - (b) so that the total balance of the Corporation's bank account or accounts is at least the operating balance.
- (2) The Corporation's request must:
 - (a) be in writing; and
 - (b) specify:
 - (i) the liabilities or expenses the payment is to meet; or
 - (ii) the amount by which the Corporation's bank balance falls short of the operating balance; and
 - (c) be in accordance with the agreement under section 52.
- (3) The Corporation must not request a payment under subsection (1) of an amount that would exceed the uncommitted balance of the Account at the time the request is made.

49 Nominated Minister's authorisation of payment to Corporation

- (1) As soon as practicable after a request is made under section 48, the nominated Minister must:
 - (a) determine whether the request is in accordance with the agreement under section 52; and
 - (b) if satisfied that it is—give written authorisation for the requested payment.

- (2) If the nominated Minister gives written authorisation for the requested payment, the Commonwealth must, as soon as practicable, pay the authorised amount to the Corporation.

Note: Under paragraph 47(a), the amount is debited from the Account.

- (3) An authorisation under subsection (1) is not a legislative instrument.

50 Corporation's request for a payment for ARENA

- (1) The Corporation may, in writing, request a payment by the Commonwealth of a specified amount to ARENA.
- (2) The Corporation must not make a request under subsection (1) unless the Board is satisfied that, if the specified amount were to be paid for with the Corporation's money, it could, at the time the request is made, be paid out of earnings of the Corporation.
- (3) The Corporation must not request a payment under subsection (1) of an amount that would exceed the uncommitted balance of the Account at the time the request is made.

51 Nominated Minister's authorisation of payment to ARENA

- (1) As soon as practicable after a request is made under section 50, the nominated Minister must:
- (a) determine whether the request is in accordance with the agreement under section 52; and
 - (b) if satisfied that it is:
 - (i) give written authorisation for the requested payment; and
 - (ii) specify the day on which the payment is to be made (or days, if the Minister decides the payment should be made in instalments); and
 - (iii) if the Minister decides the payment should be made in instalments—specify the instalment amounts for each day.

Section 52

- (2) If the nominated Minister gives written authorisation for the requested payment, the Commonwealth must, on the specified day or days, pay the authorised amount to ARENA.

Note: Under paragraph 47(b), the amount is debited from the Account.

- (3) An authorisation under subsection (1) is not a legislative instrument.

52 Agreement between nominated Minister and Corporation

The following matters are to be as agreed between the nominated Minister and the Corporation in relation to requests for payments under sections 48 and 50:

- (a) how requests are to be made, including:
 - (i) the form in which a request is to be made; and
 - (ii) the person to whom a request is to be given;
- (b) the period that may be specified in a request as mentioned in subparagraph 48(1)(a)(ii);
- (c) the amount of the Corporation's operating balance for the purposes of paragraph 48(1)(b).

Division 2—The Corporation's money

53 Application of the Corporation's money

- (1) The *Corporation's money* consists of:
 - (a) money paid to the Corporation under subsection 49(2); and
 - (b) any other money received by the Corporation.
- (2) The Corporation's money is to be applied only:
 - (a) in performing its investment function; and
 - (b) in paying or discharging the costs, expenses and other obligations incurred by the Corporation in the performance of the Corporation's functions; and
 - (c) in paying any remuneration and allowances payable to any person under this Act; and
 - (d) in making payments to the Commonwealth under section 54.
- (3) Subsection (2) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of the Corporation.

54 Managing surplus money

- (1) If, at any time, the sum of the surplus money of:
 - (a) the Corporation; and
 - (b) any wholly-owned subsidiaries of the Corporation;exceeds:
 - (c) \$20 million; or
 - (d) if the regulations prescribe a different amount—the prescribed amount;the responsible Ministers may, in writing, direct the Corporation to pay all or a specified part of the excess to the Commonwealth.

Section 55

- (2) Money of the Corporation or a subsidiary is **surplus money** if it is not immediately required for the purposes of the Corporation or subsidiary.
- (3) The Corporation must comply with the direction.

Note: The amount paid by the Corporation is credited to the Account under paragraph 46(b).
- (4) The regulations may prescribe an amount for the purposes of paragraph (1)(d) by prescribing either or both of the following:
 - (a) an amount;
 - (b) a method or methods of calculating an amount.

55 Borrowing

Borrowing by the Corporation

- (1) The Corporation must not borrow money for a purpose in connection with the Corporation's functions unless the borrowing is authorised by subsection (2) or (3) or under section 57 of the *Public Governance, Performance and Accountability Act 2013*.
- (2) The Corporation is authorised to borrow money for a purpose in connection with the Corporation's functions if:
 - (a) the purpose of the borrowing is to enable the Corporation to cover settlement of a transaction for the acquisition of one or more financial assets; and
 - (b) at the time the relevant acquisition decision was made, it was likely that the borrowing would not be needed; and
 - (c) the period of the borrowing does not exceed 7 days.
- (3) The Corporation is authorised to borrow money for a purpose in connection with the Corporation's functions if the borrowing takes place in the circumstances (if any) prescribed by the regulations.

Borrowing by subsidiaries

- (5) A wholly-owned subsidiary of the Corporation may borrow money from the Corporation (and the borrowing need not comply with subsection (2) or (3)).
- (6) Section 86 of the *Public Governance, Performance and Accountability Act 2013* (which deals with subsidiaries of corporate Commonwealth entities) does not apply to the Corporation in relation to borrowings by subsidiaries authorised by subsection (5).

56 Receipt of gifts

The Corporation may accept:

- (a) a gift of money; or
- (b) a gift of a financial asset;

if the nominated Minister authorises the Corporation, by written notice given to the Board, to accept the gift.

57 Taxation

- (1) To avoid doubt, for the purposes of section 50-25 of the *Income Tax Assessment Act 1997*, the Corporation is taken to be a public authority constituted under an Australian law.

Note: This means that the Corporation is exempt from income tax.

- (2) To avoid doubt, the Corporation is not subject to taxation under a law of a State or Territory, if the Commonwealth is not subject to the taxation.

Part 6—Investment function

Division 1—Investment function

58 Investment function

- (1) The Corporation's *investment function* is to invest, directly and indirectly, in clean energy technologies.
Note: For *clean energy technologies*, see section 60.
- (2) Without limiting subsection (1), the Corporation may perform its investment function by doing any or all of the following:
 - (a) investing in businesses or projects for the development or commercialisation of, or in relation to the use of, clean energy technologies;
 - (b) investing in businesses that supply goods or services needed to develop or commercialise, or needed for use in, clean energy technologies;
 - (c) giving guarantees in accordance with section 69.
- (3) In performing its investment function, the Corporation must ensure that, at any time on or after 1 July 2018, at least half of the funds invested at that time for the purposes of its investment function are invested in renewable energy technologies.
- (4) The Corporation may perform its investment function by making investments itself (including as a participant in partnerships, trusts, joint ventures or similar arrangements), through subsidiaries or other investment vehicles or by any combination of these means.
- (5) An investment may be an investment for the purposes of the Corporation's investment function, regardless of the means by which it is made.

59 Complying investments

- (1) The Board must take all reasonable steps to ensure that investments for the purposes (or purportedly for the purposes) of the Corporation's investment function are at all times complying investments.
- (2) **Complying investments** are investments that are:
 - (a) in clean energy technologies (see section 60); and
 - (b) solely or mainly Australian-based (see section 61); and
 - (c) not in a prohibited technology (see section 62).
- (3) As soon as practicable after the Board becomes aware that an investment for the purposes (or purportedly for the purposes) of the Corporation's investment function has ceased to be, or never was, a complying investment, the Board must give the responsible Ministers a written statement:
 - (a) informing the responsible Ministers; and
 - (b) setting out the action that the Board proposes to take in order to ensure that all investments made for the purposes of the Corporation's investment function are complying investments.
- (4) If the responsible Ministers are satisfied that an investment has ceased to be, or was never, a complying investment, the responsible Ministers may (whether or not the Board has given the Ministers a statement under subsection (3)), by written notice given to the Board, direct the Board:
 - (a) to give the responsible Ministers, within a period specified in the notice, a written explanation; and
 - (b) to take action specified in the notice, within a period specified in the notice, in order to ensure that all investments for the purposes of the Corporation's investment function are complying investments.
- (5) The Board must comply with a direction under subsection (4).

Section 60

- (6) The fact that an investment has ceased to be, or never was, a complying investment, does not affect the validity of any transaction.
- (7) For the purposes of paragraph (2)(a), an investment does not cease to be an investment in clean energy technology only because the technology to which the investment relates has, since the investment was made, ceased to qualify as a clean energy technology because:
 - (a) its performance has not met reasonable expectations that existed at the time the investment was made; or
 - (b) different standards for measuring clean energy technologies are being applied than were being applied at the time the investment was made.
- (8) A direction under subsection (4) is not a legislative instrument.

60 Clean energy technologies

- (1) Technologies that are any one or more of the following are ***clean energy technologies***:
 - (a) energy efficiency technologies;
 - (b) low-emission technologies;
 - (c) renewable energy technologies.
- (2) ***Energy efficiency technologies*** includes technologies (including enabling technologies) that are related to energy conservation technologies or demand management technologies.
- (3) ***Renewable energy technologies*** includes:
 - (a) hybrid technologies that integrate renewable energy technologies; and
 - (b) technologies (including enabling technologies) that are related to renewable energy technologies.
- (4) A technology is a ***low-emission technology*** if the Board is satisfied, in accordance with guidelines made under subsection (5), that the technology is a low-emission technology.

- (5) The Board must, by writing, make guidelines setting out the matters to which the Board will have regard in satisfying itself that a technology is a low-emission technology.
- (6) The guidelines must not be inconsistent with the Investment Mandate.
- (7) The Board must publish guidelines made under subsection (5) on the Corporation's website.
- (8) Guidelines made under subsection (5) are not a legislative instrument.

61 Australian-based investments

- (1) An investment for the purposes of the Corporation's investment function is ***solely or mainly Australian-based*** if the Board is satisfied, in accordance with guidelines made under subsection (2), that the investment is solely or mainly Australian-based.
- (2) The Board must, by writing, make guidelines setting out circumstances, conditions or other matters to which the Board will have regard in satisfying itself that an investment is solely or mainly Australian-based.
- (3) The guidelines must not be inconsistent with the Investment Mandate.
- (4) The Board must publish guidelines made under subsection (2) on the Corporation's website.
- (5) Guidelines made under subsection (2) are not a legislative instrument.

62 Prohibited technology

An investment for the purposes of the Corporation's investment function is an investment in a ***prohibited technology*** if it is an investment in:

Section 62

- (a) technology for carbon capture and storage (within the meaning of the *National Greenhouse and Energy Reporting Act 2007*); or
- (b) nuclear technology; or
- (c) nuclear power.

Division 2—Performance of investment function

63 Financial assets

- (1) Investments for the purposes of the Corporation's investment function, made directly by the Corporation or directly by a subsidiary of the Corporation (***section 63 investments***), must only be made by way of acquisition of financial assets.
- (2) A reference in this Act to a ***financial asset*** is a reference to:
 - (a) an asset that, in accordance with GFS Australia, is treated as a financial asset for the purposes of the GFS system in Australia; or
 - (b) an asset specified in regulations made for the purposes of this paragraph;but does not include a reference to an asset that, under the regulations, is taken to be a non-financial asset for the purposes of this Act.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.
- (3) If an asset held by the Corporation for the purposes of the Corporation's investment function ceases to be, or never was, a financial asset:
 - (a) the Corporation must realise the asset as soon as practicable after the Corporation becomes aware that the asset has ceased to be, or never was, a financial asset; and
 - (b) this Act (other than this subsection) applies in relation to the asset (including in relation to the realisation of the asset) as if the asset had been, or had remained, a financial asset, and an investment for the purposes of the Corporation's investment function, at all times until the realisation.
- (4) Subsection (3) applies to a subsidiary of the Corporation in the same way as it applies to the Corporation.

Section 64

- (5) Subsection (1) does not apply in relation to the giving of guarantees.

Note: For guarantees, see section 69.

64 Investment Mandate

- (1) The responsible Ministers may, by legislative instrument, give the Board directions about the performance of the Corporation's investment function, and must give at least one such direction. The directions together constitute the ***Investment Mandate***.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) In giving a direction, the responsible Ministers must have regard to the object of this Act and any other matters the responsible Ministers consider relevant.
- (3) Without limiting subsection (1), a direction may set out the policies to be pursued by the Corporation in relation to any or all of the following:
- (a) matters of risk and return;
 - (b) technologies, projects and businesses that are eligible for investment;
 - (c) the allocation of investments between the various classes of clean energy technologies;
 - (d) making investments on concessional terms;
 - (e) the types of financial instruments in which the Corporation may invest;
 - (f) the types of derivatives which the Corporation may acquire;
 - (g) the nature of the guarantees the Corporation may give and the circumstances in which they may be given;
 - (h) broad operational matters;
 - (i) other matters the responsible Ministers consider appropriate to deal with in a direction under subsection (1).

65 Limits on Investment Mandate

The responsible Ministers must not give a direction under subsection 64(1):

- (a) that has the purpose, or has or is likely to have the effect, of directly or indirectly requiring the Board to, or not to, make a particular investment; or
- (b) that is inconsistent with this Act (including the object of this Act).

66 Board to be consulted on Investment Mandate

- (1) Before giving the Board a direction under subsection 64(1), the responsible Ministers must:
 - (a) send a draft of the direction to the Board; and
 - (b) invite the Board to make a submission to the responsible Ministers on the draft direction within a reasonable time limit specified by the responsible Ministers; and
 - (c) consider any submission that is received from the Board within that time limit.
- (2) If:
 - (a) the responsible Ministers give the Board a direction under subsection 64(1); and
 - (b) the Board made a submission to the responsible Ministers on a draft of the direction within the time limit specified by the responsible Ministers;the submission is to be tabled in each House of the Parliament with the direction.

Note: For tabling of the direction, see section 38 of the *Legislation Act 2003*.

67 Compliance with Investment Mandate

- (1) The Board must take all reasonable steps to ensure that the Corporation and its subsidiaries comply with the Investment Mandate.

Section 68

- (2) As soon as practicable after the Board becomes aware that the Corporation or one of its subsidiaries has failed to comply with the Investment Mandate, the Board must give the responsible Ministers a written statement:
 - (a) informing the responsible Ministers; and
 - (b) setting out the action that the Board proposes to take in order to ensure that the Corporation or subsidiary complies with the Investment Mandate.
- (3) If the responsible Ministers are satisfied that the Corporation or one of its subsidiaries has failed to comply with the Investment Mandate, the responsible Ministers may (whether or not the Board has given the Ministers a statement under subsection (2)), by written notice given to the Board, direct the Board:
 - (a) to give the responsible Ministers, within a period specified in the notice, a written explanation; and
 - (b) to take action specified in the notice, within a period specified in the notice, in order to ensure that the Corporation or subsidiary complies with the Investment Mandate.
- (4) The Board must comply with a direction under subsection (3).
- (5) A failure to comply with:
 - (a) the Investment Mandate; or
 - (b) a direction under subsection (3);does not affect the validity of any transaction.
- (6) A direction under subsection (3) is not a legislative instrument.

68 Investment policies

- (1) The Board must formulate written policies to be complied with by the Corporation in relation to the following matters:
 - (a) the investment strategy of the Corporation;
 - (b) benchmarks and standards for assessing the performance of the Corporation's investments and of the Corporation itself;
 - (c) risk management for the Corporation's investments and for the Corporation itself;

(d) a matter specified in the regulations.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) The Board must ensure that the policies are consistent with the Investment Mandate.
- (3) The Board must cause copies of the policies to be published on the Corporation's website.
- (4) The Board must ensure that the first policies are published as soon as practicable and in any event no later than 1 July 2013.
- (5) The Board must conduct periodic reviews of the policies.
- (6) If there is a change in the Investment Mandate, the Board must review any affected policies.
- (7) The Corporation must comply with the policies.
- (8) A failure to comply with a policy does not affect the validity of any transaction.
- (9) A policy formulated under subsection (1) is not a legislative instrument.

69 Guarantees

- (1) The Corporation may only guarantee repayment of a loan (including interest on the loan) made to a person if the loan is one that could have been made by the Corporation in performing its investment function.
- (2) The giving of a guarantee under subsection (1) must be consistent with the investment strategy embodied in a policy formulated by the Board under subsection 68(1).
- (3) A guarantee is void if, at the time the Corporation purports to give the guarantee, it would secure an amount that is more than the uncommitted balance of the Account at that time, less any liabilities of the Corporation at that time not already covered by

Section 70

paragraph (b) of the definition of *uncommitted balance*. To avoid doubt, the guarantee is wholly void regardless of whether a part of the amount it would secure could be covered by the uncommitted balance of the Account.

- (4) A subsidiary of the Corporation must not give a guarantee.

70 Derivatives

- (1) The Corporation may only acquire a derivative for the purpose of:
- (a) protecting the value of an investment of the Corporation (other than a derivative); or
 - (b) protecting the return on an investment of the Corporation (other than a derivative); or
 - (c) achieving indirect exposure to financial assets (other than derivatives) for a purpose in connection with the Corporation's investment function; or
 - (d) achieving transactional efficiency for a purpose in connection with the Corporation's investment function;
- but must not acquire a derivative for the purpose of:
- (e) speculation; or
 - (f) leverage.
- (2) The acquisition of a derivative under subsection (1) must be consistent with the investment strategy embodied in a policy formulated by the Board under subsection 68(1).

Part 7—Miscellaneous

71 Matters relating to subsidiaries

- (1) The Corporation must not incorporate or otherwise form a subsidiary in a place other than Australia.
- (2) In making investments for the purposes of the Corporation's investment function, a subsidiary of the Corporation must:
 - (a) only make complying investments; and
 - (b) take all reasonable steps to comply with the Investment Mandate, to the extent to which the Investment Mandate is capable of applying to the activities of the subsidiary; and
 - (c) comply with policies formulated by the Board under section 68, to the extent to which the policies are capable of applying to the activities of the subsidiary; and
 - (d) only acquire derivatives for a purpose for which the Corporation may do so under section 70.

72 Publication of investment reports

- (1) The Corporation must, within one month after the end of each quarter, publish a report on its website for the quarter:
 - (a) containing a general summary of each investment made in that quarter for the purposes of the Corporation's investment function, including at least the following:
 - (i) the form of the investment;
 - (ii) the value of the investment or the amount invested;
 - (iii) when the investment was made; and
 - (iv) the length and expected rate of return of the investment; and
 - (v) for a guarantee—the fee for the guarantee; and
 - (vi) the place or places where the main activities to which the investment relates are carried out; and

Section 73

- (c) setting out any other matters the Corporation considers appropriate.

Note: The Corporation must also publish these reports about investments made by its subsidiaries: see subsection 71(2).

- (2) A **quarter** is a period of 3 months ending on:
 - (a) 31 March; and
 - (b) 30 June; and
 - (c) 30 September; and
 - (d) 31 December.

73 Publication of reports etc.

- (1) Either of the responsible Ministers may publish, on the internet or in any other way the Minister considers appropriate, a report, document or information given to the responsible Ministers, or to the Finance Minister in his or her capacity as Finance Minister, under paragraph 19(1)(b) of the *Public Governance, Performance and Accountability Act 2013*.
- (2) The Minister must omit from the published report, document or information any information that the Board is satisfied in accordance with subsection (3) is commercial-in-confidence.
- (3) The Board may be satisfied that information is commercial-in-confidence if a person demonstrates to the Board that:
 - (a) release of the information would cause competitive detriment to the person; and
 - (b) the information is not in the public domain; and
 - (c) the information is not required to be disclosed under another law of the Commonwealth, a State or a Territory; and
 - (d) the information is not readily discoverable.

74 Extra matters to be included in annual report

- (1) The annual report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and*

Section 75

Accountability Act 2013 for a period must do the following:

- (a) state the total value of section 63 investments as at the end of the period, by reference to the class of clean energy technologies to which the investments relate;
 - (b) set out details of the realisation of any section 63 investments in the period;
 - (c) if, as at the end of the period, less than half of the funds invested for the purposes of the Corporation's investment function are invested in renewable energy technologies—an explanation of the reasons why;
 - (d) state the total value of concessions given by the Corporation in the period;
 - (e) include a balance sheet setting out, as at the end of the period, the assets and liabilities of the Corporation and a statement of cash flows;
 - (f) set out the remuneration and allowances of Board members and senior staff of the Corporation for the period;
 - (g) set out the Corporation's operating costs and expenses for the period;
 - (h) benchmark the Corporation's operating costs and expenses for the period against the operating costs and expenses of other comparable entities for that period;
 - (i) set out details of any procurement contracts to which the Corporation is party that are in force at any time in the period and have a value of more than \$80,000;
 - (j) set out details of credits and debits to the Account in the period.
- (2) An annual report must also do the things referred to in paragraphs (1)(d) to (i) in relation to each subsidiary of the Corporation in existence at the end of the period.

75 Disclosure of official information

- (1) A Corporation official may disclose official information to an agency, body or person specified in subsection (2) if the disclosure will:

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- (a) facilitate the performance of the Corporation's investment function; or
 - (b) enable or assist the agency, body or person to perform or exercise any of its functions or powers.
- (2) The agencies, bodies and persons are the following:
 - (a) ARENA;
 - (b) the Australian Bureau of Statistics;
 - (c) the Clean Energy Regulator;
 - (d) Low Carbon Australia Limited (ACN 141 478 748);
 - (e) an APS employee in a Department administered by a responsible Minister;
 - (f) the government of a State or Territory;
 - (g) a prescribed agency or authority of a State or Territory;
 - (h) a prescribed agency, body or person.
- (3) In this Act:

Corporation official means:

- (a) a Board member; or
- (b) the CEO; or
- (c) a member of the staff of the Corporation referred to in section 41; or
- (d) a person whose services are made available to the Corporation under section 41; or
- (e) a person engaged as a consultant under section 42.

official information means information that:

- (a) was obtained by a person in the person's capacity as a Corporation official; and
- (b) relates to the affairs of a person other than a Corporation official.

76 Nominated Minister

- (1) As soon as practicable after the commencement of this section, the responsible Ministers must, by writing, determine that one of them

is to be the ***nominated Minister*** for the purposes of this Act.

- (2) A determination under subsection (1) may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (3) A determination under subsection (1) is not a legislative instrument.
- (4) The nominated Minister may give the other responsible Minister any information or documents obtained by the nominated Minister under this Act.

77 Delegation by nominated Minister

- (1) The nominated Minister may, in writing, delegate to the Secretary of the Department administered by the nominated Minister the Minister's function under subsection 49(1) or 51(1).
- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the nominated Minister.

78 Delegation by Corporation

- (1) The Corporation may, in writing under its seal, delegate all or any of its powers or functions under this Act to:
 - (a) a Board member; or
 - (b) the CEO.
- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the Corporation.

79 Delegation by Board

- (1) The Board may, in writing, delegate to a Board member or the CEO any of its powers or functions under this Act.

Section 80

- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the Board.

80 Delegation and subdelegation by CEO

- (1) The CEO may, in writing, delegate to a senior member of the staff referred to in section 41 any of the CEO's powers or functions under this Act.
- (2) If the Corporation or the Board delegates a power or function under subsection 78(1) or 79(1) to the CEO, the CEO may, in writing, subdelegate the power or function to a senior member of the staff referred to in section 41.
- (3) In exercising any powers or performing any functions under the delegation or subdelegation, the delegate or subdelegate must comply with any directions of the CEO.
- (4) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to a subdelegation in a corresponding way to the way in which they apply in relation to a delegation.

81 Review of operation of Act

- (1) The nominated Minister must arrange for a review of the operation of this Act to be undertaken as soon as practicable after 1 July 2016.
- (2) The review must include a review of the effectiveness of the Corporation in facilitating increased flows of finance into the clean energy sector.
- (3) The review must make provision for public consultation.
- (4) The persons who undertake the review must give the nominated Minister a written report of the review.

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- (5) The nominated Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of the day the report is given to the nominated Minister.

82 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.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

| | |
|--|--|
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) /sub-subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev...) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s) | reloc = relocated |
| ed = editorial change | renum = renumbered |
| exp = expires/expired or ceases/ceased to have effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = <i>Legislation Act 2003</i> | Sch = Schedule(s) |
| LIA = <i>Legislative Instruments Act 2003</i> | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given effect | SLI = Select Legislative Instrument |
| (md not incorp) = misdescribed amendment cannot be given effect | SR = Statutory Rules |
| mod = modified/modification | Sub-Ch = Sub-Chapter(s) |
| No. = Number(s) | SubPt = Subpart(s) |
| | <u>underlining</u> = whole or part not commenced or to be commenced |

Endnote 3—Legislation history

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|--------------|---|---|
| Clean Energy Finance Corporation Act 2012 | 104, 2012 | 22 July 2012 | s 3–82: 3 Aug 2012 (s 2(1) item 2) Remainder: 22 July 2012 (s 2(1) item 1) | |
| Public Governance and Resources Legislation Amendment Act (No. 1) 2017 | 92, 2017 | 23 Aug 2017 | Sch 2 (items 51–66) and Sch 4: 23 Aug 2017 (s 2(1) item 1) | Sch 4 |
| Climate Change (Consequential Amendments) Act 2022 | 38, 2022 | 13 Sept 2022 | Sch 1 (items 16–18): 14 Sept 2022 (s 2(1) item 1) | — |

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

| Provision affected | How affected |
|----------------------|-----------------------------|
| Part 1 | |
| s 3 | am No 38, 2022 |
| s 4 | am No 92, 2017; No 38, 2022 |
| Part 2 | |
| s 8 | am No 92, 2017 |
| s 10 | rs No 38, 2022 |
| Part 3 | |
| Division 2 | |
| s 23 | am No 92, 2017 |
| Division 3 | |
| s 27 | am No 92, 2017 |
| Part 4 | |
| Division 1 | |
| s 39 | rs No 92, 2017 |
| Part 5 | |
| Division 1 | |
| Subdivision A | |
| s 45 | am No 92, 2017 |
| Division 2 | |
| s 53 | am No 92, 2017 |
| s 55 | am No 92, 2017 |
| Part 6 | |
| Division 1 | |
| s 59 | ed C2 |
| Division 2 | |
| s 63 | ed C2 |
| s 66 | ed C2 |

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------|----------------|
| Part 7 | |
| s 73 | am No 92, 2017 |
| s 74 | am No 92, 2017 |

Endnotes

Endnote 5—Editorial changes

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Kind of editorial change

Updates to references of a law or a provision

Details of editorial change

This compilation was editorially changed to update references from the *Legislative Instruments Act 2003* to the *Legislation Act 2003* (wherever occurring).

Subsection 59(7)

Kind of editorial change

Update to a cross-reference

Details of editorial change

Subsection 59(7) refers to “paragraph (1)(a)” instead of “paragraph (2)(a)”.

This compilation was editorially changed to update the cross-reference by omitting “paragraph (1)(a)” and substituting “paragraph (2)(a)”.