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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Australian Local Power Agency Bill 2021**

**No.     , 2021**

*(Dr Haines)*

**A Bill for an Act to establish the Australian Local  
Power Agency, and for related purposes**



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# Contents

<b>Part 1—Preliminary</b>	1
1 Short title .....	1
2 Commencement .....	2
3 Object .....	2
4 Definitions .....	3
5 Meaning of community energy project .....	5
6 Financial assistance .....	7
<b>Part 2—Australian Local Power Agency</b>	8
<b>Division 1—Establishment, functions, powers etc.</b>	8
7 Establishment .....	8
8 ALPA’s functions .....	8
9 General rules about performance of functions .....	9
10 Minister may direct ALPA to provide advice .....	10
11 Constitutional limits .....	10
12 Powers .....	11
13 ALPA does not have privileges and immunities of the Crown .....	11
14 Taxation .....	12
<b>Division 2—ALPA’s financial assistance function</b>	13
15 ALPA’s financial assistance function .....	13
16 General rule about performance of financial assistance function .....	13
17 Provision of financial assistance to be in accordance with general strategy .....	13
18 Minister may request ALPA to consider funding for specified projects .....	13
19 Ministerial approval where grants exceed \$50 million .....	14
<b>Division 3—ALPA’s investment function</b>	15
<b>Subdivision A—ALPA’s investment function</b>	15
20 Investment function .....	15
21 Complying investments .....	15
22 Australian based investments .....	16
23 Prohibited technology .....	17
<b>Subdivision B—Performance of investment function</b>	17
24 Financial assets .....	17
25 Investment Mandate .....	18

---

26	Limits on Investment Mandate .....	19
27	Board to be consulted on Investment Mandate .....	19
28	Compliance with Investment Mandate .....	20
29	Derivatives .....	21
<b>Division 4—Community investment in large renewable energy projects</b>		
30	Community investment in large renewable energy projects .....	22
31	Constitutional basis of this Division .....	23
<b>Part 3—Board of ALPA</b>		
<b>Division 1—Establishment and functions</b>		
32	Establishment .....	25
33	Functions of the Board .....	25
<b>Division 2—General strategy, guidelines and work plans</b>		
<b>Subdivision A—General strategy</b>		
34	General strategy .....	26
35	Approval of general strategy .....	27
36	When a general strategy for a year is in force .....	27
37	Variation of general strategy .....	27
38	General strategy to be published on ALPA’s website .....	28
<b>Subdivision B—Guidelines</b>		
39	Guidelines .....	28
40	Approval of guidelines for financial assistance in excess of \$15 million .....	29
41	Guidelines to be published on ALPA’s website .....	29
<b>Subdivision C—Work plans</b>		
42	Work plan .....	30
43	Work plan to be taken into account .....	31
<b>Subdivision D—Investment policies</b>		
44	Investment policies .....	31
<b>Division 3—Board members</b>		
45	Membership .....	33
46	Appointment of Board members .....	33
47	Chair .....	33
48	Term of appointment .....	33
49	Acting appointments .....	34
50	Remuneration .....	34
51	Leave of absence .....	35
52	Disclosure of interests to the Minister .....	35

---

---

53	Resignation of appointed members.....	36
54	Termination of appointment of appointed members.....	36
55	Other terms and conditions of appointed members.....	37
<b>Division 4—Meetings of the Board</b>		<b>38</b>
56	Convening meetings .....	38
57	Secretary may nominate alternate to attend Board meetings .....	38
58	Presiding at meetings.....	38
59	Quorum.....	39
60	Voting at meetings.....	39
61	Conduct of meetings.....	39
62	Minutes.....	39
63	Decisions without meetings.....	39
<b>Division 5—Committees</b>		<b>41</b>
64	Committees.....	41
65	Remuneration and allowances .....	41
<b>Part 4—Chief Executive Officer, staff and consultants</b>		<b>43</b>
<b>Division 1—Chief Executive Officer of ALPA</b>		<b>43</b>
66	Establishment .....	43
67	Role .....	43
68	Appointment.....	43
69	Acting appointments.....	44
70	Outside employment.....	44
71	Remuneration .....	44
72	Leave .....	45
73	Disclosure of interests to the Minister .....	45
74	Resignation.....	45
75	Termination of appointment .....	46
76	Other terms and conditions.....	46
<b>Division 2—Staff and consultants</b>		<b>47</b>
77	Chief Financial Officer .....	47
78	Other staff.....	47
79	Consultants .....	47
<b>Part 5—Miscellaneous</b>		<b>48</b>
80	Matters relating to subsidiaries.....	48
81	Publication of investment reports .....	48
82	Publication of reports etc .....	49
83	Extra matters to be included in annual report .....	50

---

---

84	Delegation by ALPA .....	51
85	Delegation by Board.....	51
86	Subdelegation by CEO .....	52
87	Disclosure of information to Australian Renewable Energy Agency or Clean Energy Finance Corporation .....	52
88	Review of operation of Act .....	52
89	Regulations.....	53

**A Bill for an Act to establish the Australian Local  
Power Agency, and for related purposes**

The Parliament of Australia enacts:

**Part 1—Preliminary**

**1 Short title**

This Act is the *Australian Local Power Agency Act 2021*.

Section 2

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## 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.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The later of: (a) the day after this Act receives the Royal Assent; and (b) the day the Consolidated Revenue Fund is appropriated under an Act to the Department in which this Act is administered for payment to the Australian Local Power Agency.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

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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.

- (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:

- (a) increase the number of community energy projects in Australia; and
- (b) increase the competitiveness of renewable energy supplied by community energy projects in Australia; and



- (c) ensure that regional communities share in the benefits of renewable energy.

#### 4 Definitions

In this Act:

**acquire** includes acquire by way of issue.

**agreement** includes a contract or deed.

**ALPA** is short for **Australian Local Power Agency**.

**appointed member** means a Board member appointed under section 46.

**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.

**Board** means the Board of the Australian Local Power Agency.

**Board member** means a member of the Board.

**CEO** means the Chief Executive Officer of the Australian Local Power Agency.

**Chair** means the Chair of the Board.

**Chief Financial Officer** means the person employed under section 77.

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

Section 4

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Note: The Climate Change Convention is in Australian Treaty Series 1994 No. 2 ([1994] ATS 2) and could in 2021 be viewed in the Australian Treaty Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

**community energy project:** see section 5.

**community organisation:** see section 5.

**complying investment:** see section 21.

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

**energy** means electricity.

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

**financial asset:** see section 24.

**financial assistance** means:

- (a) grants; or
- (b) any other kinds of assistance specified under section 6.

**financial assistance function:** see section 15.

**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** means:

- (a) 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); or

(b) without limiting paragraph (a)—giving a guarantee.

*investment function*: see section 20.

*Investment Mandate*: see section 25.

*large renewable energy generation facility*: see section 30.

*prohibited technology*: see section 23.

*quarter*: see subsection 81(2).

*realise* includes redeem or dispose of.

*renewable energy* means energy produced using renewable energy technologies.

*renewable energy technologies* has the same meaning as in the *Australian Renewable Energy Agency Act 2011*.

*responsible Ministers* means:

- (a) the Minister administering this Act; and
- (b) the Finance Minister.

*Secretary* means the Secretary of the Department.

*section 24 investments*: see section 24.

*solely or mainly Australian-based*: see section 22.

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

*vacancy*, in relation to the office of an appointed member, has a meaning affected by subsection 49(3).

## 5 Meaning of community energy project

- (1) A project is a *community energy project* if ALPA is satisfied, in accordance with guidelines made under subsection (4), that:
  - (a) the main activity of the project is:

Section 5

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- (i) generating renewable energy; or
  - (ii) storing energy; or
  - (iii) increasing energy efficiency;
- in a local community in Australia; and
- (b) the project is carried out mainly by the community or by community organisations; and
  - (c) the main purpose of the project is to benefit the community or community organisations; and
  - (d) the community has a significant role in decision-making on the project.
- (2) **Community organisation** includes the following:
- (a) a not-for-profit body corporate or unincorporated association;
  - (b) a local council;
  - (c) a for-profit body corporate or unincorporated association if the main purpose of the body or association is to profit:
    - (i) one or more other community organisations; or
    - (ii) a wide membership consisting exclusively or predominantly of other community organisations or members of the community;
  - (d) any entity or business arrangement (including a partnership or joint venture) controlled (whether directly or indirectly) by:
    - (i) one or more other community organisations; or
    - (ii) a large number of persons, all or most of whom are other community organisations or members of the community.
- (3) For the purposes of determining whether a project is a **community energy project**, ALPA must disregard any investment in the project under Division 3 of Part 2 (ALPA's investment function).

*Guidelines*

- (4) The Board must, by writing, make guidelines setting out circumstances, conditions or other matters to which ALPA will have regard in satisfying itself that:

- (a) paragraph (1)(a), (b), (c) or (d) apply to a project; or
  - (b) an entity is a community organisation.
- (5) The Board must publish guidelines made under subsection (4) on ALPA's website.
- (6) Guidelines made under subsection (4) are not a legislative instrument.

## **6 Financial assistance**

For the purposes of paragraph (b) of the definition of *financial assistance* in section 4, the Minister may, by legislative instrument, specify kinds of assistance.

## **Part 2—Australian Local Power Agency**

### **Division 1—Establishment, functions, powers etc.**

#### **7 Establishment**

- (1) The Australian Local Power Agency is established by this section.
- (2) The ALPA:
  - (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 ALPA. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) ALPA's seal is to be kept in such custody as the Board directs and must not be used except as authorised by the Board.

#### **8 ALPA's functions**

ALPA has the following functions:

- (a) ALPA's financial assistance function (see Division 2);
- (b) ALPA's investment function (see Division 3);
- (c) to give advice to the Minister under regulations made for the purposes of subsection 30(1) (community investment in large renewable energy projects);
- (d) to provide technical expertise (including to governments, community organisations and the public) for the purposes of developing community energy projects;
- (e) to enter into agreements for the purpose of performing its financial assistance function and to administer such agreements;
- (f) to collect, analyse, interpret and disseminate information and knowledge relating to community energy projects;

- (g) to provide advice to the Minister relating to community energy projects, including advice about the following:
  - (i) increasing the number of community energy projects in Australia;
  - (ii) increasing the competitiveness of renewable energy supplied by community energy projects in Australia;
  - (iii) ensuring that regional communities share in the benefits of renewable energy;
- (h) to liaise with relevant persons and bodies, including the Australian Renewable Energy Agency, the Clean Energy Finance Corporation, the Clean Energy Regulator, other Commonwealth agencies and State and Territory governments, for the purposes of facilitating:
  - (i) its financial assistance function; or
  - (i) its investment function; or
  - (iii) its function under paragraph (c);
- (i) any other functions that are prescribed by the regulations;
- (j) any other functions conferred on ALPA by this Act or any other Commonwealth law;
- (k) to do anything incidental to, or conducive to, the performance of the above functions.

## **9 General rules about performance of functions**

In performing its functions, ALPA must:

- (a) act in a proper, efficient and effective manner; and
- (b) if appropriate:
  - (i) act collaboratively with other persons, organisations and governments (including international organisations and foreign governments); and
  - (ii) promote the sharing of information and knowledge about community energy projects.

Section 10

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**10 Minister may direct ALPA to provide advice**

- (1) The Minister may, in writing, direct ALPA to provide advice to the Minister in relation to a matter mentioned in paragraph 8(g).
- (2) ALPA must comply with the direction.

**11 Constitutional limits**

- (1) ALPA may perform its functions only:
  - (a) for purposes relating to a corporation to which paragraph 51(xx) of the Constitution applies; or
  - (b) for purposes related to external affairs, including:
    - (i) giving effect to the Climate Change Convention, including by performing functions in relation to renewable energy technologies that could reasonably be expected to control, reduce or prevent anthropogenic emissions of greenhouse gases; or
    - (ii) giving effect to another international agreement to which Australia is a party; or
    - (iii) addressing matters of international concern; or
    - (iv) by way of the performance of its functions in a place outside Australia; or
  - (c) for purposes relating to the collection of statistics; or
  - (d) for purposes relating to trade and 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
  - (e) by way of the use of a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; or
  - (f) by way of the provision of service, or financial assistance, to:
    - (i) the Commonwealth; or
    - (ii) an authority of the Commonwealth; orfor a purpose of the Commonwealth; or



- (g) for purposes relating to the granting of financial assistance to a State; or
  - (h) in, or for purposes relating to, a Territory; or
  - (i) in or with respect to a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*); or
  - (j) for purposes relating to the implied power of the Parliament to make laws with respect to nationhood; or
  - (k) for purposes relating to the executive power of the Commonwealth; or
  - (l) for purposes relating to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.
- (2) This section does not apply in relation to ALPA's function of giving advice to the Minister under regulations made for the purposes of subsection 30(1) (community investment in large renewable energy projects).

Note: See section 31 (constitutional basis of Division 4).

## **12 Powers**

- (1) ALPA has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) ALPA's powers include, but are not limited to, the following powers:
  - (a) the power to enter contracts;
  - (c) the power to acquire, hold and dispose of real and personal property; and
  - (c) the power to accept gifts, grants, bequests and devises made to it.

## **13 ALPA does not have privileges and immunities of the Crown**

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

Section 14

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**14 Taxation**

ALPA is not subject to taxation under a law of the Commonwealth or of a State or Territory.

## **Division 2—ALPA's financial assistance function**

### **15 ALPA's financial assistance function**

ALPA's *financial assistance function* is to provide financial assistance for:

- (a) research into community energy projects; or
- (b) the development, commercialisation or deployment of community energy projects; or
- (c) the storage and sharing of information and knowledge about community energy projects.

### **16 General rule about performance of financial assistance function**

In performing its financial assistance function, ALPA must ensure that decisions about the provision of financial assistance are based on merit.

### **17 Provision of financial assistance to be in accordance with general strategy**

ALPA must not enter into an agreement for the provision of financial assistance unless the financial assistance provided for is in accordance with the general strategy that is in force under Subdivision A of Division 2 of Part 3 at the time when the agreement is entered into.

### **18 Minister may request ALPA to consider funding for specified projects**

- (1) The Minister may, in writing, request ALPA to consider providing financial assistance for a particular project specified in the request.
- (2) ALPA must consider the request.

Section 19

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**19 Ministerial approval where grants exceed \$50 million**

ALPA must not, without the written approval of the Minister, make grants totalling more than \$50 million for a particular project.

Note: Guidelines for grant programs enabling grants exceeding \$15 million for a particular project must be approved by the Minister under section 40.

## **Division 3—ALPA's investment function**

### **Subdivision A—ALPA's investment function**

#### **20 Investment function**

- (1) ALPA's *investment function* is to invest, directly and indirectly, in community energy projects.
- (2) Without limiting subsection (1), ALPA 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 community energy projects;
  - (b) investing in businesses that supply goods or services needed to develop or commercialise, or needed for use in, community energy projects.
- (3) ALPA 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.
- (4) An investment may be an investment for the purposes of ALPA's investment function, regardless of the means by which it is made.

#### **21 Complying investments**

- (1) The Board must take all reasonable steps to ensure that investments for the purposes (or purportedly for the purposes) of ALPA's investment function are at all times complying investments.
- (2) *Complying investments* are investments that are:
  - (a) in community energy projects (see section 5); and
  - (b) solely or mainly Australian based (see section 22); and
  - (c) not in a prohibited technology (see section 23).
- (3) As soon as practicable after the Board becomes aware that an investment for the purposes (or purportedly for the purposes) of

## Section 22

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ALPA'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 ALPA'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 Minister 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 ALPA's investment function are complying investments.
- (5) The Board must comply with a direction under subsection (4).
- (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) A direction under subsection (4) is not a legislative instrument.

### **22 Australian based investments**

- (1) An investment for the purposes of ALPA'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 ALPA's website.
- (5) Guidelines made under subsection (2) are not a legislative instrument.

### **23 Prohibited technology**

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

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

### **Subdivision B—Performance of investment function**

#### **24 Financial assets**

- (1) Investments for the purposes of ALPA's investment function, made directly by ALPA or directly by a subsidiary of ALPA (*section 24 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.

## Section 25

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Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (3) If an asset held by ALPA for the purposes of ALPA's investment function ceases to be, or never was, a financial asset:
  - (a) ALPA must realise the asset as soon as practicable after ALPA 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 ALPA's investment function, at all times until the realisation.
- (4) Subsection (3) applies to a subsidiary of ALPA in the same way as it applies to ALPA.

### **25 Investment Mandate**

- (1) The responsible Ministers may, by legislative instrument, give the Board directions about the performance of ALPA'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 Minister 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 ALPA 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 community energy projects;
  - (d) making investments on concessional terms;



- (e) the types of financial instruments in which ALPA may invest;
- (f) the types of derivatives which ALPA may acquire;
- (g) the nature of the guarantees ALPA may give and the circumstances in which they may be given;
- (h) broad operational matters relating to ALPA's investment function;
- (i) other matters the responsible Ministers consider appropriate to deal with in a direction under subsection (1).

## **26 Limits on Investment Mandate**

The responsible Ministers must not give a direction under subsection 25(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).

## **27 Board to be consulted on Investment Mandate**

- (1) Before giving the Board a direction under subsection 25(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 25(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;

## Section 28

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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*.

### **28 Compliance with Investment Mandate**

- (1) The Board must take all reasonable steps to ensure that ALPA and its subsidiaries comply with the Investment Mandate.
- (2) As soon as practicable after the Board becomes aware that ALPA 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 ALPA or subsidiary complies with the Investment Mandate.
- (3) If the responsible Ministers are satisfied that ALPA 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 Minister 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 ALPA 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.

## **29 Derivatives**

- (1) ALPA may only acquire a derivative for the purpose of:
- (a) protecting the value of an investment of ALPA (other than a derivative); or
  - (b) protecting the return on an investment of ALPA (other than a derivative); or
  - (c) achieving indirect exposure to financial assets (other than derivatives) for a purpose in connection with ALPA's investment function; or
  - (d) achieving transactional efficiency for a purpose in connection with ALPA'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 44(1).

## Division 4—Community investment in large renewable energy projects

### 30 Community investment in large renewable energy projects

- (1) The regulations must establish a scheme under which:
  - (a) a project involving the construction, modification or expansion of a large renewable energy generation facility in Australia must not be carried out without the approval of the Minister; and
  - (b) such approval must be granted if, and only if, the Minister is satisfied, on the basis of advice given to the Minister by ALPA, that all individuals living within 30 km of the facility (the *locals*) have been given a reasonable opportunity to invest in the project in accordance with subsection (3).
- (2) A **large renewable energy generation facility** is a renewable energy generation facility that has a maximum capacity of 10 MW or more; and
- (3) For the purposes of paragraph (1)(b), the opportunity must involve:
  - (a) rights to at least 20% of the profits from the project being offered to the locals; and
  - (b) the locals having been given a reasonable opportunity to consider and respond to the offer; and
  - (c) the consideration (if any) payable in exchange for the rights being reasonable, having regard to the market value of the rights; and
  - (d) the offer being structured in a way that is intended to ensure that the rights are acquired by a large number of locals rather than by just a few individuals.
- (4) Subsection (3) does not prevent the rights mentioned in paragraph (3)(a) being offered to anyone else, after the offer mentioned in that subsection closes, to the extent the locals do not accept the offer.

- (5) Without limiting subsection (1), the regulations may provide for any of the following:
- (a) the matters that ALPA must take into account in giving the advice mentioned in paragraph (1)(b);
  - (b) delegation of the Minister's power to approve a project;
  - (c) review of a decision not to approve a project;
  - (d) penalties, not exceeding 1,000 penalty units, for offences against regulations made for the purposes of that subsection;
  - (e) pecuniary penalties, not exceeding 10,000 penalty units, for contravening civil penalty provisions in regulations made for the purposes of that subsection.

*Approval required from 1 July 2023*

- (6) This section applies to a project if the project starts to be carried out on or after 1 July 2023.
- (7) The first regulations establishing a scheme for the purposes of subsection (1) must be made on or before 1 July 2022.

### **31 Constitutional basis of this Division**

This Division applies to a project involving the construction, modification or expansion of a large renewable energy generation facility if:

- (a) the project is carried out by a corporation to which paragraph 51(xx) of the Constitution applies; or
- (b) the facility is located in:
  - (i) a place that is external to Australia for the purposes of paragraph 51(xxix) of the Constitution; or
  - (ii) a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*); or
  - (iii) a Territory; or
- (c) energy generated by the facility is intended to be supplied in trade or commerce:
  - (i) among the States; or

Section 31

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- (ii) within a Territory, between a State and a Territory or between 2 Territories.

## **Part 3—Board of ALPA**

### **Division 1—Establishment and functions**

#### **32 Establishment**

There is to be a Board of the Australian Local Power Agency.

#### **33 Functions of the Board**

- (1) The functions of the Board are:
  - (a) the functions the Board has under Division 2 relating to general strategies, guidelines, work plans and investment policies; and
  - (b) to decide the other strategies, objectives and policies to be followed by ALPA; and
  - (c) to ensure that ALPA complies with 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, ALPA by the Board, or with the authority of the Board, is taken to have been done by ALPA.

## **Division 2—General strategy, guidelines and work plans**

### **Subdivision A—General strategy**

#### **34 General strategy**

- (1) The Board must, for the 2021-2022 financial year and each later financial year, develop a strategy for:
  - (a) the provision of financial assistance under this Act; and
  - (b) the collection, analysis, interpretation and dissemination of information and knowledge relating to community energy projects by ALPA; and
  - (c) the provision of technical expertise by ALPA for the purposes of developing community energy projects; and
  - (d) anything else prescribed by the regulations.
- (2) The general strategy for the 2021-2022 financial year must be developed as soon as practicable after the start of that year. A general strategy for a later financial year must be developed during the previous financial year.
- (3) A general strategy must:
  - (a) be in writing; and
  - (b) be expressed to relate to the financial year for which the strategy is developed and the next 2 financial years; and
  - (c) state ALPA's principal objectives and priorities for the matters mentioned in subsection (1) during the financial year for which the strategy is developed and the next 2 financial years.
- (4) A general strategy must not require financial assistance, information or technical expertise to be provided to a particular person, or for a particular project.



### **35 Approval of general strategy**

- (1) As soon as practicable after developing a general strategy for a financial year, the Board must give a copy of the strategy to the Minister for approval.
- (2) A general strategy developed by the Board and approved by the Minister is a legislative instrument made by the Minister on the day on which the strategy is approved, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to a general strategy.

### **36 When a general strategy for a year is in force**

- (1) A general strategy for a financial year comes into force at the later of the following times:
  - (a) the time when the Minister approves the strategy;
  - (b) the start of the financial year.
- (2) A general strategy for a financial year ceases to be in force when the general strategy for the next financial year comes into force.

### **37 Variation of general strategy**

- (1) The Board must, during a financial year, regularly review the general strategy that is in force for the year and consider if any variations should be made to the strategy.
- (2) The Board may vary a general strategy.
- (3) A variation must be in writing.
- (4) As soon as practicable after developing a variation, the Board must give a copy of the variation to the Minister for approval.
- (5) A variation comes into force at the later of the following times:
  - (a) the time when the Minister approves the variation;
  - (b) the commencement time specified in the instrument of variation (not being a time before the instrument is made).

Section 38

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- (6) A variation developed by the Board and approved by the Minister is a legislative instrument made by the Minister on the day on which the variation is approved, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to a variation.

**38 General strategy to be published on ALPA’s website**

The Board must ensure that the general strategy that is in force from time-to-time under this Subdivision is published on ALPA’s website.

**Subdivision B—Guidelines**

**39 Guidelines**

- (1) Subject to subsection (2), the Board may:
- (a) develop guidelines for the provision of financial assistance under this Act; and
  - (b) vary or revoke such guidelines.
- (2) The Board must develop guidelines for a grant program if, under the program, the total of all grants for a particular project could exceed \$15 million.
- (3) Guidelines, or a variation or revocation of guidelines, must be in writing.
- (4) Unless section 40 applies, guidelines, or a variation or revocation of guidelines, come into force at the commencement time specified in the instrument making, varying or revoking the guidelines (not being a time before the instrument is made).
- (5) None of the following are legislative instruments:
- (a) guidelines;
  - (b) a variation or revocation of guidelines.

**40 Approval of guidelines for financial assistance in excess of \$15 million**

- (1) The Board must give to the Minister, for his or her approval:
  - (a) guidelines for a grant program referred to in subsection 39(2); and
  - (b) any variation of such guidelines, unless the variation is of a minor nature (a *minor variation*); and
  - (c) any revocation of such guidelines.

Note: Grants totalling more than \$50 million for a particular project must be approved by the Minister under section 19.

- (2) If the Board makes a minor variation, the Board must inform the Minister of the variation.
- (3) Guidelines, or a variation or revocation, referred to in subsection (1) come into force at the later of the following times:
  - (a) the time when the Minister approves the guidelines, or the variation or revocation (unless the variation is a minor variation);
  - (b) the commencement time specified in the instrument making, varying or revoking the guidelines (not being a time before the instrument is made).

**41 Guidelines to be published on ALPA's website**

The Board must ensure that guidelines that are in force from time-to-time under this Subdivision are published on ALPA's website.

## Subdivision C—Work plans

### 42 Work plan

- (1) The Board must, for the 2021-2022 financial year and each later financial year, develop a work plan and give it to the Minister.
- (2) The work plan for the 2021-2022 financial year must be developed as soon as practicable after the start of that year. A work plan for a later financial year must be developed during the previous financial year.
- (3) Subject to subsection (4), a work plan for a financial year must set out details of:
  - (a) how the general strategy in force under Subdivision A of this Division for the year is proposed to be implemented during the year; and
  - (b) without limiting paragraph (a)—the main activities proposed to be undertaken by ALPA and the Board during the year, and how they are proposed to be undertaken.
- (4) A work plan must not deal with carrying out ALPA's investment function.
- (5) The Board may, in writing, vary a work plan.
- (6) Before finalising a work plan, or a variation of a work plan, the Board must:
  - (a) prepare a draft of the plan or variation and give it to the Minister; and
  - (b) have regard to any comments or requests made by the Minister in relation to the draft.
- (7) A work plan, or a variation of a work plan, comes into force at the commencement time specified in the instrument making or varying the work plan (not being a time before the instrument is made).
- (8) A work plan is not a legislative instrument.

### **43 Work plan to be taken into account**

- (1) When performing functions and exercising powers in a financial year, ALPA, the Board and the CEO must take into account the work plan for that financial year.
- (2) Subsection (1) does not apply in relation to ALPA's investment function.

### **Subdivision D—Investment policies**

#### **44 Investment policies**

- (1) The Board must formulate written policies to be complied with by ALPA in relation to the following matters:
  - (a) the investment strategy of ALPA;
  - (b) benchmarks and standards for assessing the performance of ALPA's investments and of ALPA itself;
  - (c) risk management for:
    - (i) ALPA's investments; and
    - (ii) ALPA itself, in relation to ALPA's investment function;
  - (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 ALPA'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 2022.
- (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) ALPA must comply with the policies.

**Part 3** Board of ALPA

**Division 2** General strategy, guidelines and work plans

Section 44

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- (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.

## **Division 3—Board members**

### **45 Membership**

The Board consists of:

- (a) up to 6 appointed members; and
- (b) the Secretary.

### **46 Appointment of Board members**

- (1) Board members (other than the Secretary) are to be appointed:
  - (a) by the Minister by written instrument; and
  - (b) on a part-time basis.
- (2) In appointing the members (other than the Secretary), the Minister must ensure that the Board (taken as a whole) has experience or knowledge of the following:
  - (a) community energy projects;
  - (b) regional development;
  - (c) Indigenous community development;
  - (d) development or commercialisation of renewable energy businesses;
  - (e) environmental and natural resource management.

### **47 Chair**

The Minister must, by written instrument, appoint one Board member to be the Chair.

### **48 Term of appointment**

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

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

Section 49

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- (2) A person must not hold office as an appointed member for a continuous period of more than 6 years.

**49 Acting appointments**

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

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

- (3) For the purposes of a reference in:
- (a) this Act to a **vacancy** in the office of appointed member; or
  - (b) the *Acts Interpretation Act 1901* to a **vacancy** in the membership of a body;
- there are taken to be 6 offices of appointed member.

**50 Remuneration**

- (1) An appointed member is to be paid, by the Commonwealth, 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, by the Commonwealth, the remuneration that is prescribed by the regulations.

- (2) An appointed member is to be paid, by the Commonwealth, the allowances that are prescribed by the regulations.
- (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973* do not apply in relation to the office of an appointed member.

Note: The effect of this subsection is that remuneration or allowances of an appointed member will be paid out of money appropriated by an Act other than the *Remuneration Tribunal Act 1973*.

- (4) This section has effect subject to the *Remuneration Tribunal Act 1973* (except as provided by subsection (3)).

## **51 Leave of absence**

### *Chair*

- (1) If the Chair is an appointed member, the Minister may grant leave of absence to the Chair on the terms and conditions that the Minister determines.

### *Other appointed 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 an appointed member leave of absence for a period that exceeds 3 months.

## **52 Disclosure of interests to the Minister**

- (1) A disclosure by a Board member 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 Minister.
- (2) Subsection (1) applies in addition to any rules made for the purposes of that section.

Section 53

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- (3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the Board member is taken not to have complied with section 29 of that Act if the member does not comply with subsection (1) of this section.

**53 Resignation of appointed 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.

**54 Termination of appointment of appointed members**

- (1) The Minister may terminate the appointment of an appointed 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.
- (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.

Note: The appointment of an appointed 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).

**55 Other terms and conditions of appointed members**

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.

## **Division 4—Meetings of the Board**

### **56 Convening meetings**

- (1) The Board must hold such meetings as 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 at any time; and
  - (b) must convene at least 6 meetings each calendar year; and
  - (c) must convene a meeting within 30 days after receiving a written request to do so from:
    - (i) 3 or more other Board members; or
    - (ii) the Minister.

### **57 Secretary may nominate alternate to attend Board meetings**

- (1) The Secretary may, by writing, nominate a specified person who is an SES employee or acting SES employee in the Department to attend a particular meeting, or all meetings, of the Board at which the Secretary is not present.
- (2) A person so nominated may attend a meeting to which the nomination applies and, if the person does so, he or she is taken to be a Board member.

### **58 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.

### **59 Quorum**

- (1) At a meeting of the Board, a quorum is constituted by a majority of the members of the Board.
- (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.

### **60 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.

### **61 Conduct of meetings**

The Board may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

### **62 Minutes**

The Board must keep minutes of its meetings.

### **63 Decisions without meetings**

- (1) The Board is taken to have made a decision at a meeting if:

Section 63

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- (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:
- (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.

## **Division 5—Committees**

### **64 Committees**

- (1) The Board may establish committees to advise or assist in the performance of ALPA’s functions or the Board’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.

### **65 Remuneration and allowances**

- (1) This section applies if a committee is established under section 64.
- (2) A committee member is to be paid, by the Commonwealth, 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, by the Commonwealth, the remuneration that is prescribed by the regulations.
- (3) A committee member is to be paid, by the Commonwealth, the allowances that are prescribed by the regulations.
- (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973* do not apply in relation to the office of a committee member.

Note: The effect of this subsection is that remuneration or allowances of a committee member will be paid out of money appropriated by an Act other than the *Remuneration Tribunal Act 1973*.

Section 65

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- (4) This section has effect subject to the *Remuneration Tribunal Act 1973* (except as provided by subsection (3)).



## **Part 4—Chief Executive Officer, staff and consultants**

### **Division 1—Chief Executive Officer of ALPA**

#### **66 Establishment**

There is to be a Chief Executive Officer of the Australian Local Power Agency.

#### **67 Role**

- (1) The CEO is responsible for the day-to-day administration of ALPA.
- (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.

#### **68 Appointment**

- (1) The CEO is to be appointed by the Minister on the recommendation of the Board.
- (2) The CEO is to be appointed:
  - (a) by written instrument; and
  - (b) on a full-time basis.

## Section 69

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- (3) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: A CEO is eligible for re-appointment: see section 33AA of the *Acts Interpretation Act 1901*.

- (4) The Minister must not appoint a Board member as the CEO.

### **69 Acting appointments**

- (1) The Minister may, by written instrument, appoint a person (including an appointed 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.

- (2) If the Minister appoints an appointed member to act as the CEO, the member is to be appointed to act on a part-time basis.

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

### **70 Outside employment**

The CEO must not engage in paid work outside the duties of his or her office without the Minister's approval.

### **71 Remuneration**

- (1) The CEO is to be paid, by the Commonwealth, the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid, by the Commonwealth, the remuneration that is prescribed by the regulations.
- (2) The CEO is to be paid, by the Commonwealth, the allowances that are prescribed by the regulations.

- (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973* do not apply in relation to the office of an appointed member.

Note: The effect of this subsection is that remuneration or allowances of the CEO will be paid out of money appropriated by an Act other than the *Remuneration Tribunal Act 1973*.

- (4) This section has effect subject to the *Remuneration Tribunal Act 1973* (except as provided by subsection (3)).

## **72 Leave**

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

## **73 Disclosure of interests to the Minister**

- (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 Minister.
- (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.

## **74 Resignation**

- (1) The CEO may resign his or her appointment by giving the Minister a written resignation.

Section 75

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- (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.

**75 Termination of appointment**

- (1) The Minister may terminate the appointment of the CEO:
- (a) for misbehaviour; or
  - (b) if the CEO is unable to perform the duties of his or her office because of physical or mental incapacity.
- (2) Before the Minister terminates the appointment of the CEO under subsection (1) the Minister must consult the Board.
- (3) The Minister may terminate the appointment of the CEO if:
- (a) the CEO:
    - (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 CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (c) the CEO fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section; or
  - (d) the CEO engages, except with the Minister's approval, in paid work outside the duties of his or her office (see section 70).

**76 Other terms and conditions**

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

## **Division 2—Staff and consultants**

### **77 Chief Financial Officer**

- (1) ALPA may employ a person to perform chief financial officer functions in ALPA.
- (2) The person is to be employed on the terms and conditions that ALPA determines in writing.

### **78 Other staff**

- (1) The other staff necessary to assist ALPA are to be persons engaged under the *Public Service Act 1999* who are:
  - (a) employed in the Department; and
  - (b) made available for the purpose by the Secretary.
- (2) ALPA must not otherwise engage or employ such staff.
- (3) The Secretary must make available persons employed in the Department to assist ALPA.

### **79 Consultants**

- (1) ALPA may engage consultants to provide technical and specialist advisory services to assist ALPA in the performance of its functions.
- (2) The consultants are to be engaged on the terms and conditions that ALPA determines.
- (3) A person must not be engaged as a consultant to perform operational or administrative duties of a kind that are performed, or are capable of being performed, by the staff referred to in section 78.

## **Part 5—Miscellaneous**

### **80 Matters relating to subsidiaries**

- (1) ALPA must not incorporate or otherwise form a subsidiary:
  - (a) for purposes other than the purposes of ALPA's investment function; or
  - (b) in a place other than Australia.
- (2) In making investments for the purposes of ALPA's investment function, a subsidiary of ALPA 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 44, 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 ALPA may do so under section 29.

### **81 Publication of investment reports**

- (1) ALPA 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 ALPA'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
- (c) setting out any other matters ALPA considers appropriate.

Note: ALPA must also publish these reports about investments made by its subsidiaries: see subsection 80(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.

## **82 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.

**83 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 Accountability Act 2013* for a period must include the following:
- (a) particulars of each request given to ALPA by the Minister under section 18, during the period;
  - (b) particulars of each direction given to ALPA by the Minister under section 10, during the period;
  - (c) for each person to whom financial assistance has been provided, or committed, under an agreement during the period, particulars of:
    - (i) the name of the person; and
    - (ii) the nature and amount of the financial assistance provided or committed; and
    - (iii) the clean energy projects to which the assistance relates;
  - (d) an assessment of the extent to which agreements for the provision of financial assistance entered into during the period have progressed, or are expected to progress, the principal objectives and priorities as stated in the general strategy in force under Subdivision A of Division 2 of Part 3 for the period;
  - (e) state the total value of section 24 investments as at the end of the period, by reference to the class of community energy projects to which the investments relate;
  - (f) set out details of the realisation of any section 24 investments in the period;
  - (g) state the total value of concessions given by ALPA in the period;
  - (h) include a balance sheet setting out, as at the end of the period, the assets and liabilities of ALPA and a statement of cash flows;
  - (i) set out the remuneration and allowances of Board members and senior staff of ALPA for the period;
  - (j) set out ALPA's operating costs and expenses for the period;



- (k) benchmark ALPA's operating costs and expenses for the period against the operating costs and expenses of other comparable entities for that period;
  - (l) set out details of any procurement contracts to which ALPA is party that are in force at any time in the period and have a value of more than \$80,000.
- (2) An annual report must also do the things referred to in paragraphs (1)(e) to (h) in relation to each subsidiary of ALPA in existence at the end of the period.

#### **84 Delegation by ALPA**

- (1) ALPA 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 ALPA.

#### **85 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, other than Subdivision A of Division 2 of Part 3 (general strategy).
- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the Board.
- (3) A delegation under this section:
- (a) may be revoked by the Board (whether or not constituted by the Board members who constituted the Board when the power was delegated); and
  - (b) continues in force even if the membership of the Board changes.

### **86 Subdelegation by CEO**

- (1) If ALPA or the Board delegates a power or function under subsection 84(1) or 85(1) to the CEO, the CEO may, in writing, subdelegate the power or function to:
  - (a) the Chief Financial Officer; or
  - (b) a member of staff referred to in section 78 who:
    - (i) is an SES employee or acting SES employee in the Department; or
    - (ii) is an APS employee in the Department who is classified as Executive Level 2, or is acting in a position usually occupied by an APS employee who is so classified.
- (2) In exercising any powers or performing any functions under the subdelegation, the subdelegate must comply with any directions of the CEO.
- (3) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to the subdelegation in a corresponding way to the way in which they apply in relation to a delegation.

### **87 Disclosure of information to Australian Renewable Energy Agency or Clean Energy Finance Corporation**

ALPA may disclose information to the Australian Renewable Energy Agency or the Clean Energy Finance Corporation if the disclosure will enable or assist the Australian Renewable Energy Agency or the Clean Energy Finance Corporation to perform or exercise any of its functions or powers.

### **88 Review of operation of Act**

- (1) The Minister must arrange for an independent review of the operation of this Act to be undertaken as soon as practicable after 1 July 2025 by an appropriately qualified person or persons.
- (2) The review must include a review of the effectiveness of ALPA in facilitating increased flows of finance into the community energy sector.

- (3) The review must make provision for public consultation.
- (4) The person or persons who undertake the review must give the Minister a written report of the review.
- (5) The 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.

### **89 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.