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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Climate Change (National Framework
for Adaptation and Mitigation)
(Consequential and Transitional
Provisions) Bill 2021**

No. , 2021

(Ms Steggall)

A Bill for an Act to create duties to consider climate change impacts and to deal with consequential and transitional matters arising from the enactment of the *Climate Change (National Framework for Adaptation and Mitigation) Act 2021*, and for related purposes

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A Bill for an Act to create duties to consider climate change impacts and to deal with consequential and transitional matters arising from the enactment of the *Climate Change (National Framework for Adaptation and Mitigation) Act 2021*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Climate Change (National Framework for Adaptation and Mitigation) (Consequential and Transitional Provisions) Act 2021*.

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
Provisions	Commencement	Date/Details
1. The whole of this Act	At the same time as the <i>Climate Change (National Framework for Adaptation and Action) Act 2021</i> commences. However, the provisions do not commence at all if that Act does not commence.	

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Repeals and amendments

Part 1—Repeal of the Climate Change Authority Act 2011

Climate Change Authority Act 2011

1 The whole of the Act

Repeal the Act.

Part 2—Consequential amendments

Australian Securities and Investments Commission Act 2001

2 Paragraph 127(2A)(f)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

Carbon Credits (Carbon Farming Initiative) Act 2011

3 Subsections 306(1) and (3)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

4 Paragraph 306(3)(b)

Omit “Climate Change Authority’s”, substitute “Climate Change Commission’s”.

5 Subsections 306(9) and (10)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

6 Subsection 306(11)

Omit “Climate Change Authority’s”, substitute “Climate Change Commission’s”.

7 Paragraph 306(13)(a)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

Clean Energy Regulator Act 2011

8 Paragraph 49(1)(s)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

Competition and Consumer Act 2010

9 Paragraphs 44AAF(3)(cb) and 155AAA(12)(lb)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

National Greenhouse and Energy Reporting Act 2007

10 Subsections 76A(1) and (3)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

11 Paragraph 76A(3)(b)

Omit “Climate Change Authority’s”, substitute “Climate Change Commission’s”.

12 Subsections 76A(9) and (10)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

13 Subsection 76A(11)

Omit “Climate Change Authority’s”, substitute “Climate Change Commission’s”.

14 Paragraph 76A(13)(a)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

15 Subsection 76B(1)

Omit “Climate Change Authority” (wherever occurring), substitute “Climate Change Commission”.

16 Subsections 76B(2), (3) and (5)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

Schedule 1 Repeals and amendments

Part 2 Consequential amendments

17 Paragraph 76B(5)(b)

Omit “Climate Change Authority’s”, substitute “Climate Change Commission’s”.

18 Subsections 76B(8) and (9)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

19 Subsection 76B(10)

Omit “Climate Change Authority’s”, substitute “Climate Change Commission’s”.

20 Paragraph 76B(12)(a)

Omit “Climate Change Authority”, substitute “Climate Change Commission”.

Part 3—Duties to consider climate change impacts

Public Governance Performance and Accountability Act 2013

21 Section 14

Omit “sections 15 to 19”, substitute “sections 15 to 19A”.

22 After section 19

Insert:

19A Duty to consider climate change impacts

- (1) The accountable authority of a Commonwealth entity must, when performing functions or duties, or exercising powers, consider:
 - (a) the potential risks from, and impacts of, climate change relevant to the performance of the function or duty or exercise of the power; and
 - (b) the potential contribution to Australia’s emissions of greenhouse gases or the potential contribution to the broader impacts associated with climate change from the performance of the function or duty or exercise of the power.
- (2) For the purposes of subsection (1), potential risks from, and impacts of, climate change include:
 - (a) potential biophysical impacts; and
 - (b) potential long and short term economic, environmental, health and other social impacts; and
 - (c) potential beneficial and detrimental impacts; and
 - (d) potential direct and indirect impacts; and
 - (e) potential cumulative impacts.
- (3) In considering a matter under subsection (1), the accountable authority of a Commonwealth entity must comply with any guidelines in force under subsection (4).
- (4) The Climate Change Minister may, by legislative instrument, make guidelines about how the accountable authority of a

Schedule 1 Repeals and amendments

Part 3 Duties to consider climate change impacts

Commonwealth authority is to consider the matters mentioned in subsection (1).

- (5) A Commonwealth entity's annual report under section 46 for a reporting period must include information about the climate risks relevant to the performance of the entity's functions, duties or powers for the period that the accountable authority of the entity considers are material.
- (6) In this section:

Climate Change Minister means the Minister who administers the *Climate Change (National Framework for Adaptation and Mitigation) Act 2021*.

emissions has the same meaning as in the *Climate Change (National Framework for Adaptation and Mitigation) Act 2021*.

Schedule 2—Transitional provisions

1 Definitions

In this Schedule:

Authority means the Climate Change Authority as established and in existence immediately before the transition time.

Commission means the Climate Change Commission as established and in existence immediately after the transition time.

new Act means the *Climate Change (National Framework for Adaptation and Mitigation) Act 2021*.

old Act means the *Climate Change Authority Act 2011*.

transition time means the commencement of the new Act.

2 Reviews

- (1) Section 306 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* as amended by this Act applies to a review with a deadline for completion that occurs after the transition time.
- (2) Section 76A of the *National Greenhouse and Energy Reporting Act 2007* as amended by this Act applies to a review with a deadline for completion that occurs after the transition time.
- (3) Section 76B of the *National Greenhouse and Energy Reporting Act 2007* as amended by this Act applies to a review with a deadline for completion that occurs after the transition time.
- (4) Anything done by, or in relation to, the Authority before the transition time for the purposes of a review referred to in this item is taken to have been done by the Commission.

3 Staff

The persons who, immediately before the transition time, are engaged as staff under section 52 of the old Act are taken, after the transition time, to be staff engaged under section 70 of the new Act.

4 Consultants

The persons who, immediately before the transition time, are engaged as consultants to the Authority under section 54 of the old Act are taken, after the transition time, to be engaged as consultants to the Commission under section 72 of the new Act.

5 Continuation of appointment of CEO

- (1) Subitem (2) applies to the person who, immediately before the transition time, holds office as the CEO of the Authority.
- (2) The instrument appointing the person to that office has effect, after the transition time, as if it were an instrument made by the Minister under subsection 62(1) of the new Act appointing the person, for the remainder of the period of the person's appointment to that office, to the office of the CEO of the Commission.

6 Final annual report

- (1) The CEO of the Authority must prepare and give to the Minister, for presentation to the Parliament, a report (the *final report*) on the activities of the Authority during the final reporting period.
 - (2) Sections 39, 40, 42, 43 and 46 of the *Public Governance, Performance and Accountability Act 2013*, and rules made for the purposes of those sections, apply subject to this item in relation to the Authority and the final reporting period as if:
 - (a) references in those sections and rules to an annual report for a Commonwealth entity were references to the final report; and
 - (b) references in those sections and rules to a reporting period for a Commonwealth entity were references to the final reporting period; and
 - (c) references in those sections and rules to a Commonwealth entity were references to the Authority; and
 - (d) references in those sections and rules to the accountable authority for a Commonwealth entity were references to the CEO of the authority; and
 - (e) references in those sections and rules to the responsible Minister for a Commonwealth entity were references to the Minister.
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- (3) The CEO of the Authority must give the final report to the Minister by the 15th day of the fourth month after the end of the final reporting period. The Minister may grant an extension of time in special circumstances.
- (4) The Minister must table the final report in each House of the Parliament as soon as practicable after receiving the report.
- (5) The CEO of the authority must publish the final report on the Department’s website as soon as practicable after the report is tabled in the House of Representatives.
- (6) In this item:
- annual report** means a report under section 46 of the *Public Governance, Performance and Accountability Act 2013*.
- final reporting period** means the period:
- (a) beginning:
- (i) if, by the transition time, no annual report for the Authority has been given to the Minister for the most recent reporting period for the Authority that ended before the transition time—at the start of that reporting period; or
- (ii) otherwise—at the start of the reporting period for the Authority that includes the transition time; and
- (b) ending immediately before the transition time.

reporting period for the Authority means the reporting period for the Authority under the *Public Governance, Performance and Accountability Act 2013*.

7 Transfer of Authority’s records and documents

- (1) This item applies to any records or documents that were in the possession of the Authority immediately before the transition time.
- (2) The records and documents are to be transferred to the Commission after the transition time.
- (3) Sections 37 and 41 of the *Public Governance, Performance and Accountability Act 2013* apply in relation to records or documents transferred to a Commonwealth entity (within the meaning of that Act) under this item as if the records or documents related to that entity.

8 Termination of appointments of certain persons

- (1) This item applies to a person who, immediately before the transition time, holds office as either of the following:
 - (a) a member of the Authority;
 - (b) a member of the Land Sector Carbon and Biodiversity Board.
- (2) The person ceases to hold that office at the transition time.
- (3) Nothing in this item prevents the person being appointed to an office under the new Act.

9 Effect of this Schedule on the operation of section 7 of the *Acts Interpretation Act 1901*

This Schedule does not limit the operation of section 7 of the *Acts Interpretation Act 1901*.

10 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The rules may prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the repeals or amendments made by this Act; or
 - (b) the enactment of this Act or the *Climate Change (National Framework for Adaptation and Mitigation) Act 2021*.