EXPLANATORY STATEMENT

Issued by the authority of the Minister for Climate Change and Energy Efficiency

Clean Energy Act 2011

Proclamation

Item 2 of the table in subsection 2(1) of the Clean Energy Act 2011 (the Act) provides that sections 3 to 303 of the Act commence on a day to be fixed by Proclamation. However, commencement must not occur before the last bill in the Clean Energy Legislative Package receives the Royal Assent; and if any of the provisions in sections 3 to 303 do not commence within six months of the date this Act or other Acts in the Clean Energy Legislative Package receive the Royal Assent, then those provisions commence on the first day after the end of that six-month period. The Act received the Royal Assent on 18 November 2011.

The purpose of the Proclamation is to fix 2 April 2012 as the day on which sections 3 to 303 of the Act will commence. Consequently, item 4 of the table in subsection 2(1) of the Act provides that sections 304 to 312 will commence at the same time as sections 3 to 303.

The Act is the central act of the Clean Energy Legislative Package. The Act sets up the carbon pricing mechanism and deals with assistance for emissions-intensive trade-exposed industries (the Jobs and Competitiveness Program) and the coal-fired electricity generation sector. The Act contains rules for who is covered, the Opt-in Scheme as well as what sources of carbon pollution are included, the obligation to surrender emissions units, caps on the amount of carbon pollution from 1 July 2015, international linking, monitoring, enforcement, appeal and review provisions.

The Proclamation concerns the commencement of the substantive provisions of the Act. This ensures that the substantive provisions of the Act are operational at the time the Clean Energy Regulator (the Regulator) begins operating, which will be 2 April 2012, to allow the Regulator to perform its functions and to prepare for the commencement of the carbon pricing mechanism on 1 July 2012.

Other sections of the Act have already commenced. Sections 1 and 2 of the Act, concerned with the short title and commencement, commenced on the day the Act received the Royal Assent.

Sections 303A and 303B commenced on the day after the Act received the Royal Assent. These sections are complementary measures to address any risks to energy security under the carbon pricing mechanism, and provide for the Treasurer to authorise loans to an emissions-intensive coal-fired generation complex for the purpose of refinancing existing debt or the purchase of future carbon units. These sections commenced the day after Royal Assent to allow the Energy Security Council and the Treasury to authorise loans as required.

The Proclamation is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Authority: Item 2 of the table in subsection 2(1) of the Clean Energy Act 2011