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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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Clean Energy Finance Corporation Bill 2012

No. , 2012

(Treasury)

**A Bill for an Act to establish the Clean Energy
Finance Corporation, and for related purposes**

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1 **A Bill for an Act to establish the Clean Energy**
2 **Finance Corporation, and for related purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Preliminary**
5

6 **1 Short title**

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

Section 2

1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.
6

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.	
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.	

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

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

13 **3 Object**

14 The object of this Act is to establish the Clean Energy Finance
15 Corporation to facilitate increased flows of finance into the clean
16 energy sector.

17 **4 Definitions**

18 In this Act:

- 1 **Account** means the Clean Energy Finance Corporation Special
2 Account established by section 45.
- 3 **acquire** includes acquire by way of issue.
- 4 **ARENA** means the Australian Renewable Energy Agency.
- 5 **asset** means:
- 6 (a) any kind of real or personal property; or
7 (b) any legal or equitable estate or interest in real or personal
8 property; or
9 (c) any legal or equitable right.
- 10 **Australia**, when used in a geographical sense, includes the external
11 Territories.
- 12 **Board** means the Board of the Corporation.
- 13 **Board member** means a member of the Board (and includes the
14 Chair).
- 15 **CEO** means the Chief Executive Officer of the Corporation.
- 16 **Chair** means the Chair of the Board.
- 17 **clean energy technologies**: see section 60.
- 18 **Climate Change Convention** means the United Nations
19 Framework Convention on Climate Change done at New York on
20 9 May 1992, as amended and in force for Australia from time to
21 time.
- 22 Note: The text of the Convention is set out in Australian Treaty Series 1994
23 No. 2 ([1994] ATS 2). In 2012, the text of a Convention in the
24 Australian Treaty Series was accessible through the Australian
25 Treaties Library on the AustLII website (www.austlii.edu.au).
- 26 **complying investment**: see subsection 59(2).
- 27 **Corporation** means the Clean Energy Finance Corporation
28 established by section 8.
- 29 **Corporation official**: see subsection 75(3).
- 30 **Corporation's money**: see section 53.

Section 4

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

3 **energy efficiency technologies**: see section 60.

4 **Finance Minister** means the Minister administering the
5 *Commonwealth Authorities and Companies Act 1997*.

6 **financial asset**: see section 63.

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

11 (a) from time to time, a new version of the publication is
12 produced; and

13 (b) from time to time, material in the current version of the
14 publication is updated by other publications of the Australian
15 Bureau of Statistics.

16 **GFS system** has the same meaning as in GFS Australia.

17 **investment**:

18 (a) means any mode of application of money or financial assets
19 for the purpose of gaining a return (whether by way of
20 income, capital gain or any other form of return); and

21 (b) includes giving a guarantee.

22 **investment function**: see subsection 58(1).

23 **Investment Mandate**: see section 64.

24 **low-emission technology**: see section 60.

25 **nominated Minister**: see section 76.

26 **official information**: see subsection 75(3).

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

29 **person** includes a partnership.

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

- 1 ***prohibited technology***: see section 62.
- 2 ***quarter***: see subsection 72(2).
- 3 ***realise*** includes redeem or dispose of.
- 4 ***renewable energy technologies***: see section 60.
- 5 ***responsible Ministers*** means:
- 6 (a) the Treasurer; and
- 7 (b) the Finance Minister.
- 8 ***section 63 investment***: see subsection 63(1).
- 9 ***solely or mainly Australian-based***: see section 61.
- 10 ***subsidiary*** of the Corporation means a subsidiary of the
- 11 Corporation for the purposes of the *Commonwealth Authorities and*
- 12 *Companies Act 1997*.
- 13 ***surplus money***: see subsection 54(2).
- 14 ***uncommitted balance***, of the Account, at any time means the
- 15 amount standing to the credit of the Account at that time less the
- 16 total, at that time, of the Corporation's liabilities (whether actual or
- 17 contingent) in respect of guarantees given by the Corporation and
- 18 still in effect.
- 19 ***vacancy***, in relation to the office of a Board member, has a
- 20 meaning affected by subsection 19(4).
- 21 ***wholly-owned subsidiary*** of the Corporation means a subsidiary of
- 22 the Corporation none of whose members is a person other than:
- 23 (a) the Corporation; or
- 24 (b) a nominee of the Corporation; or
- 25 (c) a subsidiary of the Corporation, being a subsidiary none of
- 26 whose members is a person other than:
- 27 (i) the Corporation; or
- 28 (ii) a nominee of the Corporation; or
- 29 (d) a nominee of such a subsidiary.

Section 5

1 **5 Crown to be bound**

2 (1) This Act binds the Crown in each of its capacities.

3 (2) This Act does not make the Crown liable to be prosecuted for an
4 offence.

5 **6 Extension to external Territories**

6 This Act extends to every external Territory.

7 **7 Extra-territorial application**

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

10

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 *Commonwealth Authorities and Companies Act 1997* applies to the Corporation. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

(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.

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

Section 10

1 **10 Constitutional limits**

2 The Corporation may perform its functions only:

- 3 (a) for purposes relating to a corporation to which paragraph
4 51(xx) of the Constitution applies; or
5 (b) for purposes related to external affairs, including:
6 (i) giving effect to the Climate Change Convention,
7 including by investing in clean energy technologies that
8 could reasonably be expected to control, reduce or
9 prevent anthropogenic emissions of greenhouse gases;
10 or
11 (ii) giving effect to another international agreement to
12 which Australia is a party; or
13 (iii) addressing matters of international concern; or
14 (iv) by way of the performance of its functions in a place
15 outside Australia; or
16 (c) for purposes relating to the collection of statistics; or
17 (d) for purposes relating to trade or commerce:
18 (i) between Australia and places outside Australia; or
19 (ii) among the States; or
20 (iii) within a Territory, between a State and a Territory or
21 between 2 Territories; or
22 (e) by way of the use of a postal, telegraphic, telephonic or other
23 like service within the meaning of paragraph 51(v) of the
24 Constitution; or
25 (f) by way of the provision of service, or financial assistance, to:
26 (i) the Commonwealth; or
27 (ii) an authority of the Commonwealth;
28 for a purpose of the Commonwealth; or
29 (g) for purposes relating to a Territory; or
30 (h) with respect to a Commonwealth place (within the meaning
31 of the *Commonwealth Places (Application of Laws) Act*
32 *1970*); or
33 (i) for purposes relating to the relations of the Commonwealth
34 with the islands of the Pacific; or
35 (j) for purposes relating to the implied power of the Parliament
36 to make laws with respect to nationhood; or

- 1 (k) for purposes relating to the executive power of the
2 Commonwealth; or
3 (l) for purposes relating to matters incidental to the execution of
4 any of the legislative powers of the Parliament or the
5 executive power of the Commonwealth.

6 **11 Corporation's powers**

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

12 **12 Corporation does not have privileges and immunities of the**
13 **Crown**

14 The Corporation does not have the privileges and immunities of the
15 Crown in right of the Commonwealth.
16

1 **Part 3—Board of Corporation**

2 **Division 1—Establishment and functions**

3 **13 Establishment**

4 There is to be a Board of the Corporation.

5 **14 Functions of the Board**

- 6 (1) The functions of the Board are:
- 7 (a) to decide strategies and policies to be followed by the
- 8 Corporation; and
- 9 (b) to ensure the proper, efficient and effective performance of
- 10 the Corporation's functions; and
- 11 (c) any other functions conferred on the Board by this Act.
- 12 (2) The Board has the power to do all things necessary or convenient
- 13 to be done for or in connection with the performance of its
- 14 functions.
- 15 (3) Anything done in the name of, or on behalf of, the Corporation by
- 16 the Board, or with the authority of the Board, is taken to have been
- 17 done by the Corporation.
- 18

1 **Division 2—Board Members**

2 **15 Membership**

3 The Board consists of:

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

6 **16 Appointment of Board members**

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

Section 17

1 **17 Chair**

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

4 **18 Term of appointment**

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

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

10 **19 Acting appointments**

11 (1) The nominated Minister may, by written instrument, appoint a
12 Board member to act as the Chair:

13 (a) during a vacancy in the office of Chair (whether or not an
14 appointment has previously been made to the office); or

15 (b) during any period, or during all periods, when the Chair:

16 (i) is absent from duty or from Australia; or

17 (ii) is, for any reason, unable to perform the duties of the
18 office.

19 (2) The nominated Minister may, by written instrument, appoint a
20 person to act as a Board member (other than the Chair):

21 (a) during a vacancy in the office of a Board member (other than
22 the Chair) whether or not an appointment has previously been
23 made to the office; or

24 (b) during any period, or during all periods, when a Board
25 member (other than the Chair):

26 (i) is absent from duty or from Australia; or

27 (ii) is, for any reason, unable to perform the duties of the
28 office.

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

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

10 **20 Remuneration**

- 11 (1) A Board member is to be paid the remuneration that is determined
12 by the Remuneration Tribunal. If no determination of that
13 remuneration by the Tribunal is in operation, the member is to be
14 paid the remuneration that is prescribed by the regulations.
- 15 (2) A Board member is to be paid the allowances that are prescribed
16 by the regulations.
- 17 (3) This section has effect subject to the *Remuneration Tribunal Act*
18 *1973*.

19 **21 Leave of absence**

20 *Chair*

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

23 *Other Board members*

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

Section 22

1 **22 Resignation of Board members**

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

9 **23 Termination of appointment of Board members**

- 10 The responsible Ministers may terminate the appointment of a
11 Board member:
- 12 (a) for misbehaviour; or
13 (b) if the member is unable to perform the duties of his or her
14 office because of physical or mental incapacity; or
15 (c) if the member:
- 16 (i) becomes bankrupt; or
17 (ii) applies to take the benefit of any law for the relief of
18 bankrupt or insolvent debtors; or
19 (iii) compounds with his or her creditors; or
20 (iv) makes an assignment of his or her remuneration for the
21 benefit of his or her creditors; or
22 (d) if the member is absent, except on leave of absence, from 3
23 consecutive meetings of the Board; or
24 (e) if the member fails, without reasonable excuse, to comply
25 with an obligation imposed on him or her by section 27F or
26 27J of the *Commonwealth Authorities and Companies Act*
27 1997; or
28 (f) if the responsible Ministers are satisfied that the performance
29 of the Board member has been unsatisfactory for a significant
30 period.

1 **24 Other terms and conditions of Board members**

2 A Board member holds office on the terms and conditions (if any)
3 in relation to matters not covered by this Act that are determined
4 by the responsible Ministers.
5

Section 25

1 **Division 3—Meetings of the Board**

2 **25 Convening meetings**

3 (1) The Board must hold the meetings that are necessary for the
4 efficient performance of its functions.

5 (2) Meetings are to be held at the times and places that the Board
6 determines.

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

9 (3) The Chair:

10 (a) may convene a meeting; and

11 (b) must convene at least 6 meetings each calendar year; and

12 (c) must convene a meeting within 30 days of receiving a written
13 request to do so from another Board member.

14 **26 Presiding at meetings**

15 (1) The Chair must preside at all meetings at which he or she is
16 present.

17 (2) If the Chair is not present at a meeting, the other Board members
18 present must appoint one of themselves to preside.

19 **27 Quorum**

20 (1) At a meeting of the Board, a quorum is constituted by:

21 (a) 4 Board members; or

22 (b) at any time when there are only 5 Board members—3 Board
23 members.

24 (2) However, if:

25 (a) a Board member is required by section 27J of the
26 *Commonwealth Authorities and Companies Act 1997* not to
27 be present during the deliberations, or to take part in any
28 decision, of the Board with respect to a particular matter; and

29 (b) when the member leaves the meeting concerned there is no
30 longer a quorum present;

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

4 **28 Voting at meetings**

5 (1) A question arising at a meeting is to be determined by a majority of
6 the votes of the Board members present and voting.

7 (2) The person presiding at a meeting has a deliberative vote and, in
8 the event of an equality of votes, a casting vote.

9 **29 Conduct of meetings**

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

12 **30 Minutes**

13 The Board must keep minutes of its meetings.

14 **31 Decisions without meetings**

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

Part 3 Board of Corporation
Division 3 Meetings of the Board

Section 31

- 1 (3) For the purposes of paragraph (1)(a), a Board member is not
2 entitled to vote on a proposed decision if the member would not
3 have been entitled to vote on that proposal if the matter had been
4 considered at a meeting of the Board.
- 5 (4) The Board must keep a record of decisions made in accordance
6 with this section.
7

1 **Part 4—Chief Executive Officer, staff and**
2 **consultants and committees**

3 **Division 1—Chief Executive Officer of Corporation**

4 **32 Establishment**

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

6 **33 Functions of the CEO**

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

17 **34 Appointment**

- 18 (1) The CEO is to be appointed by the Board after consultation with
19 the responsible Ministers.
- 20 (2) The CEO is to be appointed:
21 (a) by written instrument; and
22 (b) on a full-time basis.
- 23 (4) The CEO must not be a Board member.
- 24 (5) The Board must appoint the first CEO no later than 6 months after
25 the commencement of this section.

Section 35

1 **35 CEO holds office during Board's pleasure**

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

7 **36 Acting appointments**

8 The Board may, by written instrument and after consultation with

9 the responsible Ministers, appoint a person (other than a Board

10 member) to act as the CEO:

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

17 Note: Sections 33AB and 33A of the *Acts Interpretation Act 1901* have rules

18 that apply to acting appointments.

19 **37 Terms and conditions**

20 The CEO holds office on the terms and conditions (including terms

21 and conditions relating to remuneration and allowances) in relation

22 to matters not covered by this Act that are determined by the

23 Board.

24 **38 Outside employment**

- 25 (1) The CEO must not engage in paid employment outside the duties
- 26 of his or her office without the Chair's approval.
- 27 (2) The Chair must notify the responsible Ministers of any approval
- 28 given under subsection (1).

1 **39 Disclosure of interests**

2 The CEO must give written notice to the Board of all material
3 personal interests that the CEO has or acquires and that conflict or
4 could conflict with the proper performance of the CEO's duties.

5 **40 Resignation**

- 6 (1) The CEO may resign his or her appointment by giving the Chair a
7 written resignation.
- 8 (2) The resignation takes effect on the day it is received by the Chair
9 or, if a later day is specified in the resignation, on that later day.
- 10 (3) The Chair must notify the responsible Ministers of the CEO's
11 resignation.
12

1 **Division 2—Staff and consultants**

2 **41 Staff**

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

18 **42 Consultants**

- 19 (1) The Corporation may engage consultants to assist in the
20 performance of its functions.
- 21 (2) The consultants are to be engaged on the terms and conditions that
22 the Corporation determines.
23

1 **Division 3—Committees**

2 **43 Committees**

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

15 **44 Remuneration and allowances**

- 16 (1) If the Board decides that a committee member who is also a Board
17 member is to be remunerated in relation to his or her committee
18 membership, the committee member is to be paid the remuneration
19 that is determined by the Remuneration Tribunal. If no
20 determination of that remuneration by the Tribunal is in operation,
21 the committee member is to be paid the remuneration that is
22 prescribed by the regulations.
- 23 (2) A committee member who is a Board member is to be paid the
24 allowances that are prescribed by the regulations.
- 25 (3) Subsections (1) and (2) have effect subject to the *Remuneration*
26 *Tribunal Act 1973*.
- 27 (4) If the Board decides that a committee member other than a Board
28 member is to be remunerated, the committee member is to be paid
29 the remuneration and allowances determined by the Corporation in
30 writing.
31

1 **Part 5—Financial arrangements**

2 **Division 1—Clean Energy Finance Corporation Special**
3 **Account**

4 **Subdivision A—Establishment of Account**

5 **45 Establishment of Account**

6 (1) The Clean Energy Finance Corporation Special Account is
7 established by this section.

8 (2) The Account is a Special Account for the purposes of the *Financial*
9 *Management and Accountability Act 1997*.

10 **Subdivision B—Credits**

11 **46 Credits to the Account**

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

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

20 **Subdivision C—Debits**

21 **47 Purposes of the Account**

22 The purposes of the Account are as follows:

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

1 **48 Corporation's request for a payment for itself**

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

20 **49 Nominated Minister's authorisation of payment to Corporation**

- 21 (1) As soon as practicable after a request is made under section 48, the
22 nominated Minister must:
- 23 (a) determine whether the request is in accordance with the
24 agreement under section 52; and
- 25 (b) if satisfied that it is—give written authorisation for the
26 requested payment.
- 27 (2) If the nominated Minister gives written authorisation for the
28 requested payment, the Commonwealth must, as soon as
29 practicable, pay the authorised amount to the Corporation.
- 30 Note: Under paragraph 47(a), the amount is debited from the Account.
- 31 (3) An authorisation under subsection (1) is not a legislative
32 instrument.

Section 50

1 **50 Corporation's request for a payment for ARENA**

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

11 **51 Nominated Minister's authorisation of payment to ARENA**

- 12 (1) As soon as practicable after a request is made under section 50, the
13 nominated Minister must:
- 14 (a) determine whether the request is in accordance with the
15 agreement under section 52; and
- 16 (b) if satisfied that it is:
- 17 (i) give written authorisation for the requested payment;
18 and
- 19 (ii) specify the day on which the payment is to be made (or
20 days, if the Minister decides the payment should be
21 made in instalments); and
- 22 (iii) if the Minister decides the payment should be made in
23 instalments—specify the instalment amounts for each
24 day.
- 25 (2) If the nominated Minister gives written authorisation for the
26 requested payment, the Commonwealth must, on the specified day
27 or days, pay the authorised amount to ARENA.
- 28 Note: Under paragraph 47(b), the amount is debited from the Account.
- 29 (3) An authorisation under subsection (1) is not a legislative
30 instrument.

1 **52 Agreement between nominated Minister and Corporation**

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

- 5 (a) how requests are to be made, including:
6 (i) the form in which a request is to be made; and
7 (ii) the person to whom a request is to be given;
8 (b) the period that may be specified in a request as mentioned in
9 subparagraph 48(1)(a)(ii);
10 (c) the amount of the Corporation's operating balance for the
11 purposes of paragraph 48(1)(b).
12

1 **Division 2—The Corporation's money**

2 **53 Application of the Corporation's money**

- 3 (1) The *Corporation's money* consists of:
- 4 (a) money paid to the Corporation under subsection 49(2); and
- 5 (b) any other money received by the Corporation.
- 6 (2) The Corporation's money is to be applied only:
- 7 (a) in performing its investment function; and
- 8 (b) in paying or discharging the costs, expenses and other
- 9 obligations incurred by the Corporation in the performance of
- 10 the Corporation's functions; and
- 11 (c) in paying any remuneration and allowances payable to any
- 12 person under this Act; and
- 13 (d) in making payments to the Commonwealth under section 54.
- 14 (3) Subsection (2) does not prevent the Corporation investing money
- 15 in accordance with section 18 of the *Commonwealth Authorities*
- 16 and *Companies Act 1997*.

17 **54 Managing surplus money**

- 18 (1) If, at any time, the sum of the surplus money of:
- 19 (a) the Corporation; and
- 20 (b) any wholly-owned subsidiaries of the Corporation;
- 21 exceeds:
- 22 (c) \$20 million; or
- 23 (d) if the regulations prescribe a different amount—the
- 24 prescribed amount;
- 25 the responsible Ministers may, in writing, direct the Corporation to
- 26 pay all or a specified part of the excess to the Commonwealth.
- 27 (2) Money of the Corporation or a subsidiary is *surplus money* if it is
- 28 not immediately required for the purposes of the Corporation or
- 29 subsidiary.
- 30 (3) The Corporation must comply with the direction.

1 Note: The amount paid by the Corporation is credited to the Account under
2 paragraph 46(b).

3 (4) The regulations may prescribe an amount for the purposes of
4 paragraph (1)(d) by prescribing either or both of the following:

- 5 (a) an amount;
6 (b) a method or methods of calculating an amount.

7 **55 Borrowing**

8 *Borrowing by the Corporation*

9 (1) The Corporation must not borrow money for a purpose in
10 connection with the Corporation's functions unless the borrowing
11 is authorised by subsection (2) or (3).

12 (2) The Corporation is authorised to borrow money for a purpose in
13 connection with the Corporation's functions if:

- 14 (a) the purpose of the borrowing is to enable the Corporation to
15 cover settlement of a transaction for the acquisition of one or
16 more financial assets; and
17 (b) at the time the relevant acquisition decision was made, it was
18 likely that the borrowing would not be needed; and
19 (c) the period of the borrowing does not exceed 7 days.

20 (3) The Corporation is authorised to borrow money for a purpose in
21 connection with the Corporation's functions if the borrowing takes
22 place in the circumstances (if any) prescribed by the regulations.

23 (4) Nothing in subsection (1) affects the Corporation's ability to obtain
24 goods or services on credit in accordance with section 28A of the
25 *Commonwealth Authorities and Companies Act 1997*.

26 *Borrowing by subsidiaries*

27 (5) A wholly-owned subsidiary of the Corporation may borrow money
28 from the Corporation (and the borrowing need not comply with
29 subsection (2) or (3)).

Section 56

- 1 (6) Section 29 of the *Commonwealth Authorities and Companies Act*
2 1997 does not apply to the Corporation in relation to borrowings
3 by subsidiaries authorised by subsection (5).

4 **56 Receipt of gifts**

- 5 The Corporation may accept:
6 (a) a gift of money; or
7 (b) a gift of a financial asset;
8 if the nominated Minister authorises the Corporation, by written
9 notice given to the Board, to accept the gift.

10 **57 Taxation**

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

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

- 15 (2) To avoid doubt, the Corporation is not subject to taxation under a
16 law of a State or Territory, if the Commonwealth is not subject to
17 the taxation.
18

1 **Part 6—Investment function**

2 **Division 1—Investment function**

3 **58 Investment function**

- 4 (1) The Corporation's *investment function* is to invest, directly and
5 indirectly, in clean energy technologies.

6 Note: For *clean energy technologies*, see section 60.

- 7 (2) Without limiting subsection (1), the Corporation may perform its
8 investment function by doing any or all of the following:
9 (a) investing in businesses or projects for the development or
10 commercialisation of, or in relation to the use of, clean
11 energy technologies;
12 (b) investing in businesses that supply goods or services needed
13 to develop or commercialise, or needed for use in, clean
14 energy technologies;
15 (c) giving guarantees in accordance with section 69.
- 16 (3) In performing its investment function, the Corporation must ensure
17 that, at any time on or after 1 July 2018, at least half of the funds
18 invested at that time for the purposes of its investment function are
19 invested in renewable energy technologies.
- 20 (4) The Corporation may perform its investment function by making
21 investments itself (including as a participant in partnerships, trusts,
22 joint ventures or similar arrangements), through subsidiaries or
23 other investment vehicles or by any combination of these means.
- 24 (5) An investment may be an investment for the purposes of the
25 Corporation's investment function, regardless of the means by
26 which it is made.

27 **59 Complying investments**

- 28 (1) The Board must take all reasonable steps to ensure that investments
29 for the purposes (or purportedly for the purposes) of the
30 Corporation's investment function are at all times complying
31 investments.

Section 59

- 1 (2) ***Complying investments*** are investments that are:
2 (a) in clean energy technologies (see section 60); and
3 (b) solely or mainly Australian-based (see section 61); and
4 (c) not in a prohibited technology (see section 62).
- 5 (3) As soon as practicable after the Board becomes aware that an
6 investment for the purposes (or purportedly for the purposes) of the
7 Corporation's investment function has ceased to be, or never was, a
8 complying investment, the Board must give the responsible
9 Ministers a written statement:
10 (a) informing the responsible Ministers; and
11 (b) setting out the action that the Board proposes to take in order
12 to ensure that all investments made for the purposes of the
13 Corporation's investment function are complying
14 investments.
- 15 (4) If the responsible Ministers are satisfied that an investment has
16 ceased to be, or was never, a complying investment, the
17 responsible Ministers may (whether or not the Board has given the
18 Ministers a statement under subsection (3)), by written notice given
19 to the Board, direct the Board:
20 (a) to give the responsible Ministers, within a period specified in
21 the notice, a written explanation; and
22 (b) to take action specified in the notice, within a period
23 specified in the notice, in order to ensure that all investments
24 for the purposes of the Corporation's investment function are
25 complying investments.
- 26 (5) The Board must comply with a direction under subsection (4).
- 27 (6) The fact that an investment has ceased to be, or never was, a
28 complying investment, does not affect the validity of any
29 transaction.
- 30 (7) For the purposes of paragraph (1)(a), an investment does not cease
31 to be an investment in clean energy technology only because the
32 technology to which the investment relates has, since the
33 investment was made, ceased to qualify as a clean energy
34 technology because:

- 1 (a) its performance has not met reasonable expectations that
2 existed at the time the investment was made; or
3 (b) different standards for measuring clean energy technologies
4 are being applied than were being applied at the time the
5 investment was made.
- 6 (8) A direction under subsection (4) is not a legislative instrument.

7 **60 Clean energy technologies**

- 8 (1) Technologies that are any one or more of the following are *clean*
9 *energy technologies*:
10 (a) energy efficiency technologies;
11 (b) low-emission technologies;
12 (c) renewable energy technologies.
- 13 (2) *Energy efficiency technologies* includes technologies (including
14 enabling technologies) that are related to energy conservation
15 technologies or demand management technologies.
- 16 (3) *Renewable energy technologies* includes:
17 (a) hybrid technologies that integrate renewable energy
18 technologies; and
19 (b) technologies (including enabling technologies) that are
20 related to renewable energy technologies.
- 21 (4) A technology is a *low-emission technology* if the Board is
22 satisfied, in accordance with guidelines made under subsection (5),
23 that the technology is a low-emission technology.
- 24 (5) The Board must, by writing, make guidelines setting out the
25 matters to which the Board will have regard in satisfying itself that
26 a technology is a low-emission technology.
- 27 (6) The guidelines must not be inconsistent with the Investment
28 Mandate.
- 29 (7) The Board must publish guidelines made under subsection (5) on
30 the Corporation's website.

Section 61

- 1 (8) Guidelines made under subsection (5) are not a legislative
2 instrument.

3 **61 Australian-based investments**

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

18 **62 Prohibited technology**

- 19 An investment for the purposes of the Corporation's investment
20 function is an investment in a *prohibited technology* if it is an
21 investment in:
- 22 (a) technology for carbon capture and storage (within the
23 meaning of the *National Greenhouse and Energy Reporting*
24 *Act 2007*); or
25 (b) nuclear technology; or
26 (c) nuclear power.
27

1 **Division 2—Performance of investment function**

2 **63 Financial assets**

3 (1) Investments for the purposes of the Corporation's investment
4 function, made directly by the Corporation or directly by a
5 subsidiary of the Corporation (*section 63 investments*), must only
6 be made by way of acquisition of financial assets.

7 (2) A reference in this Act to a *financial asset* is a reference to:

8 (a) an asset that, in accordance with GFS Australia, is treated as
9 a financial asset for the purposes of the GFS system in
10 Australia; or

11 (b) an asset specified in regulations made for the purposes of this
12 paragraph;

13 but does not include a reference to an asset that, under the
14 regulations, is taken to be a non-financial asset for the purposes of
15 this Act.

16 Note: For specification by class, see subsection 13(3) of the *Legislative*
17 *Instruments Act 2003*.

18 (3) If an asset held by the Corporation for the purposes of the
19 Corporation's investment function ceases to be, or never was, a
20 financial asset:

21 (a) the Corporation must realise the asset as soon as practicable
22 after the Corporation becomes aware that the asset has ceased
23 to be, or never was, a financial asset; and

24 (b) this Act (other than this subsection) applies in relation to the
25 asset (including in relation to the realisation of the asset) as if
26 the asset had been, or had remained, a financial asset, and an
27 investment for the purposes of the Corporation's investment
28 function, at all times until the realisation.

29 (4) Subsection (3) applies to a subsidiary of the Corporation in the
30 same way as it applies to the Corporation.

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

33 Note: For guarantees, see section 69.

Section 64

1 **64 Investment Mandate**

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

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

8 (2) In giving a direction, the responsible Ministers must have regard to
9 the object of this Act and any other matters the responsible
10 Ministers consider relevant.

11 (3) Without limiting subsection (1), a direction may set out the policies
12 to be pursued by the Corporation in relation to any or all of the
13 following:

14 (a) matters of risk and return;

15 (b) technologies, projects and businesses that are eligible for
16 investment;

17 (c) the allocation of investments between the various classes of
18 clean energy technologies;

19 (d) making investments on concessional terms;

20 (e) the types of financial instruments in which the Corporation
21 may invest;

22 (f) the types of derivatives which the Corporation may acquire;

23 (g) the nature of the guarantees the Corporation may give and the
24 circumstances in which they may be given;

25 (h) broad operational matters;

26 (i) other matters the responsible Ministers consider appropriate
27 to deal with in a direction under subsection (1).

28 **65 Limits on Investment Mandate**

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

31 (a) that has the purpose, or has or is likely to have the effect, of
32 directly or indirectly requiring the Board to, or not to, make a
33 particular investment; or

- 1 (b) that is inconsistent with this Act (including the object of this
2 Act).

3 **66 Board to be consulted on Investment Mandate**

- 4 (1) Before giving the Board a direction under subsection 64(1), the
5 responsible Ministers must:
6 (a) send a draft of the direction to the Board; and
7 (b) invite the Board to make a submission to the responsible
8 Ministers on the draft direction within a reasonable time limit
9 specified by the responsible Ministers; and
10 (c) consider any submission that is received from the Board
11 within that time limit.

12 (2) If:

- 13 (a) the responsible Ministers give the Board a direction under
14 subsection 64(1); and
15 (b) the Board made a submission to the responsible Ministers on
16 a draft of the direction within the time limit specified by the
17 responsible Ministers;
18 the submission is to be tabled in each House of the Parliament with
19 the direction.

20 Note: For tabling of the direction, see section 38 of the *Legislative*
21 *Instruments Act 2003*.

22 **67 Compliance with Investment Mandate**

- 23 (1) The Board must take all reasonable steps to ensure that the
24 Corporation and its subsidiaries comply with the Investment
25 Mandate.
26 (2) As soon as practicable after the Board becomes aware that the
27 Corporation or one of its subsidiaries has failed to comply with the
28 Investment Mandate, the Board must give the responsible
29 Ministers a written statement:
30 (a) informing the responsible Ministers; and
31 (b) setting out the action that the Board proposes to take in order
32 to ensure that the Corporation or subsidiary complies with the
33 Investment Mandate.

Part 6 Investment function

Division 2 Performance of investment function

Section 68

- 1 (3) If the responsible Ministers are satisfied that the Corporation or
2 one of its subsidiaries has failed to comply with the Investment
3 Mandate, the responsible Ministers may (whether or not the Board
4 has given the Ministers a statement under subsection (2)), by
5 written notice given to the Board, direct the Board:
6 (a) to give the responsible Ministers, within a period specified in
7 the notice, a written explanation; and
8 (b) to take action specified in the notice, within a period
9 specified in the notice, in order to ensure that the Corporation
10 or subsidiary complies with the Investment Mandate.
- 11 (4) The Board must comply with a direction under subsection (3).
- 12 (5) A failure to comply with:
13 (a) the Investment Mandate; or
14 (b) a direction under subsection (3);
15 does not affect the validity of any transaction.
- 16 (6) A direction under subsection (3) is not a legislative instrument.

68 Investment policies

- 17
- 18 (1) The Board must formulate written policies to be complied with by
19 the Corporation in relation to the following matters:
20 (a) the investment strategy of the Corporation;
21 (b) benchmarks and standards for assessing the performance of
22 the Corporation's investments and of the Corporation itself;
23 (c) risk management for the Corporation's investments and for
24 the Corporation itself;
25 (d) a matter specified in the regulations.
- 26 Note: For variation and revocation, see subsection 33(3) of the *Acts*
27 *Interpretation Act 1901*.
- 28 (2) The Board must ensure that the policies are consistent with the
29 Investment Mandate.
- 30 (3) The Board must cause copies of the policies to be published on the
31 Corporation's website.

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

11 **69 Guarantees**

- 12 (1) The Corporation may only guarantee repayment of a loan
13 (including interest on the loan) made to a person if the loan is one
14 that could have been made by the Corporation in performing its
15 investment function.
- 16 (2) The giving of a guarantee under subsection (1) must be consistent
17 with the investment strategy embodied in a policy formulated by
18 the Board under subsection 68(1).
- 19 (3) A guarantee is void if, at the time the Corporation purports to give
20 the guarantee, it would secure an amount that is more than the
21 uncommitted balance of the Account at that time, less any
22 liabilities of the Corporation at that time not already covered by
23 paragraph (b) of the definition of *uncommitted balance*. To avoid
24 doubt, the guarantee is wholly void regardless of whether a part of
25 the amount it would secure could be covered by the uncommitted
26 balance of the Account.
- 27 (4) A subsidiary of the Corporation must not give a guarantee.

28 **70 Derivatives**

- 29 (1) The Corporation may only acquire a derivative for the purpose of:

Part 6 Investment function

Division 2 Performance of investment function

Section 70

- 1 (a) protecting the value of an investment of the Corporation
2 (other than a derivative); or
3 (b) protecting the return on an investment of the Corporation
4 (other than a derivative); or
5 (c) achieving indirect exposure to financial assets (other than
6 derivatives) for a purpose in connection with the
7 Corporation's investment function; or
8 (d) achieving transactional efficiency for a purpose in connection
9 with the Corporation's investment function;
10 but must not acquire a derivative for the purpose of:
11 (e) speculation; or
12 (f) leverage.
- 13 (2) The acquisition of a derivative under subsection (1) must be
14 consistent with the investment strategy embodied in a policy
15 formulated by the Board under subsection 68(1).
16

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

Section 73

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

3 (2) A *quarter* is a period of 3 months ending on:

- 4 (a) 31 March; and
- 5 (b) 30 June; and
- 6 (c) 30 September; and
- 7 (d) 31 December.

8 **73 Publication of reports etc.**

9 (1) Either of the responsible Ministers may publish, on the internet or
10 in any other way the Minister considers appropriate, a report,
11 document or information given to the responsible Ministers, or to
12 the Finance Minister in his or her capacity as Finance Minister,
13 under paragraph 16(1)(b) or (c) of the *Commonwealth Authorities*
14 *and Companies Act 1997*.

15 (2) The Minister must omit from the published report, document or
16 information any information that the Board is satisfied in
17 accordance with subsection (3) is commercial-in-confidence.

18 (3) The Board may be satisfied that information is
19 commercial-in-confidence if a person demonstrates to the Board
20 that:
21 (a) release of the information would cause competitive detriment
22 to the person; and
23 (b) the information is not in the public domain; and
24 (c) the information is not required to be disclosed under another
25 law of the Commonwealth, a State or a Territory; and
26 (d) the information is not readily discoverable.

27 **74 Extra matters to be included in annual report**

28 (1) Each annual report on the Corporation under section 9 of the
29 *Commonwealth Authorities and Companies Act 1997* must do the
30 following:

31 (a) state the total value of section 63 investments as at the end of
32 the financial year, by reference to the class of clean energy
33 technologies to which the investments relate;

Section 75

- 1 (b) set out details of the realisation of any section 63 investments
2 in the financial year;
- 3 (c) if, as at the end of the financial year, less than half of the
4 funds invested for the purposes of the Corporation's
5 investment function are invested in renewable energy
6 technologies—an explanation of the reasons why;
- 7 (d) state the total value of concessions given by the Corporation
8 in the financial year;
- 9 (e) include a balance sheet setting out, as at the end of the
10 financial year, the assets and liabilities of the Corporation
11 and a statement of cash flows;
- 12 (f) set out the remuneration and allowances of Board members
13 and senior staff of the Corporation for the financial year;
- 14 (g) set out the Corporation's operating costs and expenses for the
15 financial year;
- 16 (h) benchmark the Corporation's operating costs and expenses
17 for the financial year against the operating costs and expenses
18 of other comparable entities for that financial year;
- 19 (i) set out details of any procurement contracts to which the
20 Corporation is party that are in force at any time in the
21 financial year and have a value of more than \$80,000;
- 22 (j) set out details of credits and debits to the Account in the
23 financial year.
- 24 (2) An annual report must also do the things referred to in
25 paragraphs (1)(d) to (i) in relation to each subsidiary of the
26 Corporation in existence at the end of the financial year.

75 Disclosure of official information

- 28 (1) A Corporation official may disclose official information to an
29 agency, body or person specified in subsection (2) if the disclosure
30 will:
- 31 (a) facilitate the performance of the Corporation's investment
32 function; or
- 33 (b) enable or assist the agency, body or person to perform or
34 exercise any of its functions or powers.
- 35 (2) The agencies, bodies and persons are the following:
-

Section 76

- 1 (a) ARENA;
2 (b) the Australian Bureau of Statistics;
3 (c) the Clean Energy Regulator;
4 (d) Low Carbon Australia Limited (ACN 141 478 748);
5 (e) an APS employee in a Department administered by a
6 responsible Minister;
7 (f) the government of a State or Territory;
8 (g) a prescribed agency or authority of a State or Territory;
9 (h) a prescribed agency, body or person.

10 (3) In this Act:

11 **Corporation official** means:

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

19 **official information** means information that:

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

24 **76 Nominated Minister**

- 25 (1) As soon as practicable after the commencement of this section, the
26 responsible Ministers must, by writing, determine that one of them
27 is to be the **nominated Minister** for the purposes of this Act.
- 28 (2) A determination under subsection (1) may be varied, but not
29 revoked, in accordance with subsection 33(3) of the *Acts*
30 *Interpretation Act 1901*.
- 31 (3) A determination under subsection (1) is not a legislative
32 instrument.

Section 77

- 1 (4) The nominated Minister may give the other responsible Minister
2 any information or documents obtained by the nominated Minister
3 under this Act.

77 Delegation by nominated Minister

- 4
5 (1) The nominated Minister may, in writing, delegate to the Secretary
6 of the Department administered by the nominated Minister the
7 Minister's function under subsection 49(1) or 51(1).
8
9 (2) In exercising any powers or performing any functions under the
10 delegation, the delegate must comply with any directions of the
 nominated Minister.

78 Delegation by Corporation

- 11
12 (1) The Corporation may, in writing under its seal, delegate all or any
13 of its powers or functions under this Act to:
14 (a) a Board member; or
15 (b) the CEO.
16
17 (2) In exercising any powers or performing any functions under the
18 delegation, the delegate must comply with any directions of the
 Corporation.

79 Delegation by Board

- 19
20 (1) The Board may, in writing, delegate to a Board member or the
21 CEO any of its powers or functions under this Act.
22
23 (2) In exercising any powers or performing any functions under the
24 delegation, the delegate must comply with any directions of the
 Board.

80 Delegation and subdelegation by CEO

- 25
26 (1) The CEO may, in writing, delegate to a senior member of the staff
27 referred to in section 41 any of the CEO's powers or functions
28 under this Act.

Section 81

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

11 **81 Review of operation of Act**

- 12 (1) The nominated Minister must arrange for a review of the operation
13 of this Act to be undertaken as soon as practicable after 1 July
14 2016.
- 15 (2) The review must include a review of the effectiveness of the
16 Corporation in facilitating increased flows of finance into the clean
17 energy sector.
- 18 (3) The review must make provision for public consultation.
- 19 (4) The persons who undertake the review must give the nominated
20 Minister a written report of the review.
- 21 (5) The nominated Minister must cause a copy of the report to be
22 tabled in each House of the Parliament within 15 sitting days of the
23 day the report is given to the nominated Minister.

24 **82 Regulations**

- 25 The Governor-General may make regulations prescribing matters:
26 (a) required or permitted by this Act to be prescribed; or
27 (b) necessary or convenient to be prescribed for carrying out or
28 giving effect to this Act.