

2019-2020-2021

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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

No. , 2021

(Ms Steggall)

**A Bill for an Act to establish a national climate
change adaptation and mitigation framework, and
to establish the Climate Change Commission, and
for related purposes**

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1 **A Bill for an Act to establish a national climate**
2 **change adaptation and mitigation framework, and**
3 **to establish the Climate Change Commission, and**
4 **for related purposes**

5 The Parliament of Australia enacts:

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1 **Part 1—Introduction**

2 **Division 1—Preliminary**

3 **^1 Short title**

4 This Act is the *Climate Change (National Framework for*
5 *Adaptation and Mitigation) Act 2021.*

6 **^2 Commencement**

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

11

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after the day on which the Consolidated Revenue Fund is appropriated under an Act to the Department in which this Act is administered for payment for the purposes of the Climate Change Commission.	

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

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

18 **^3 Objects of this Act**

19 (1) This Act recognises:

- 1 (a) that climate change is a serious challenge to Australia's
2 prosperity and security; and
3 (b) that this requires:
4 (i) a planned and fair transition towards a net zero
5 emissions economy; and
6 (ii) the implementation of adaptation measures to protect
7 livelihoods, business and the environment; and
8 (c) that decisions under this Act should be consistent with
9 limiting the increase in global warming to well below 2°C
10 and pursuing efforts to limit it to 1.5°C above pre-industrial
11 levels.
- 12 (2) The objects of this Act are to establish a framework to address the
13 challenge of climate change, including by doing the following:
14 (a) setting a target of achieving net zero emissions by a target
15 day (which is 31 December 2050 unless the Minister
16 determines an earlier day because of a significant change in
17 relevant factors);
18 (b) aiming to reduce net accounting emissions by 60% on 2005
19 levels by 2030;
20 (c) providing for a system of emissions budgeting;
21 (d) assessing the risk of, and preparing for, climate change
22 impacts;
23 (e) assisting Australia to adapt to climate change;
24 (f) establishing an independent body to ensure accountable and
25 transparent plans to manage the climate challenge;
26 (g) providing policy certainty to assist the private sector in
27 decision making;
28 (h) assisting and guiding the taking of action by government and
29 the community to reduce emissions in order to meet
30 Australia's obligations under the following:
31 (i) the Climate Change Convention;
32 (ii) the Kyoto protocol;
33 (iii) the Paris Agreement;
34 (iv) any other international agreement relating to climate
35 change.

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1 **^4 Simplified outline of this Act**

2 This Act establishes a framework for adaptation and mitigation in
3 relation to climate change.

4 Decision makers must have regard to 7 guiding principles when
5 performing functions or duties or exercising powers under this Act.

6 The Commission is required to prepare a national climate change
7 risk assessment within a year of the commencement of this Act and
8 every 5 years after that.

9 In response to each national climate change risk assessment, the
10 Minister must determine a national adaptation plan. The
11 Commission must evaluate the implementation of these plans
12 annually.

13 This Act sets a target of net zero emissions by a target day (which
14 is 31 December 2050). The Minister can bring the target day
15 forward if there is a significant change in factors relevant to the
16 Target.

17 In order to meet the Target, this Act also provides for the Minister
18 to set emissions budgets on advice from the Commission.

19 The Minister must also prepare emissions reduction plans for each
20 emissions budget. The Commission provides advice on these plans
21 also.

22 This Act establishes the Commission and provides for a
23 Parliamentary Joint Committee on Climate Adaptation and
24 Mitigation. Appointments to the Commission must be approved by
25 the Committee.

26 **^5 Definitions**

27 In this Act:

1 **adaptation** means any process of adjusting to actual or expected
2 climate change and its effects that:

- 3 (a) in human systems—seeks to moderate or avoid harm or
4 exploit beneficial opportunities; and
5 (b) in natural systems—may be facilitated by human
6 intervention.

7 **Australian universities** includes persons collaborating with
8 Australian universities.

9 **carbon dioxide equivalence** of an amount of greenhouse gas has
10 the same meaning as in the *National Greenhouse and Energy*
11 *Reporting Act 2007*.

12 **CEO** means the Chief Executive Officer of the Commission.

13 **climate change** means a change of climate which is attributed
14 directly or indirectly to human activity that alters the composition
15 of the global atmosphere and which is in addition to natural climate
16 variability observed over comparable time periods.

17 **Climate Change Convention** means the United Nations
18 Framework Convention on Climate Change done at New York on
19 9 May 1992, as in force for Australia from time to time.

20 Note: The text of the Convention is set out in Australian Treaty Series 1994
21 No. 2 ([1994] ATS 2) and in 2021 could be viewed in the Australian
22 Treaties Library on the AustLII website (www.austlii.edu.au).

23 **climate system** means the totality of the atmosphere, hydrosphere,
24 biosphere and geosphere and their interactions.

25 **Commission** means the Climate Change Commission established
26 by section **^35**.

27 **committee** means a committee established under section **^73**.

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

30 **eligible offset** has the meaning given by the rules.

1 **low emissions technologies** means technologies set out in the
2 Technology Investment Roadmap.

3 **low emissions technology statement**: see paragraph ^80(d).

4 **net accounting emissions** means the total of gross emissions and
5 emissions from land use, land-use change, and forestry sectors (as
6 reported in the National Greenhouse Inventory), less the sum of the
7 following:

- 8 (a) removals of greenhouse gases (including from land use,
9 land-use change and forestry sectors);
10 (b) eligible offsets.

11 **net zero emissions** means zero net accounting emissions.

12 **Paris Agreement** means the Paris Agreement, done at Paris on
13 12 December 2015, as amended and in force for Australia from
14 time to time.

15 Note: The Agreement is in Australian Treaty Series 2016 No. 24 ([2016]
16 ATS 24) and could in 2021 be viewed in the Australian Treaties
17 Library on the AustLII website (<http://www.austlii.edu.au>).

18 **precautionary principle** means taking precautionary measures to
19 anticipate, prevent or minimize the causes of climate change and
20 mitigate its adverse effects. Where there are threats of serious or
21 irreversible damage, lack of full scientific certainty should not be
22 used as a reason for postponing such measures.

23 **reduction** of emissions has the same meaning as in the *National*
24 *Greenhouse and Energy Reporting Act 2007*.

25 **removal** of greenhouse gas has the same meaning as in the
26 *National Greenhouse and Energy Reporting Act 2007*.

27 **reservoir** means a component or components of the climate system
28 where a greenhouse gas or a precursor of a greenhouse gas is
29 stored.

30 **rules** means rules made under section ^86.

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1 ***sink*** means any process, activity or mechanism which removes a
2 greenhouse gas, an aerosol or a precursor of a greenhouse gas from
3 the atmosphere.

4 ***source*** means any process or activity which releases a greenhouse
5 gas, an aerosol or a precursor of a greenhouse gas into the
6 atmosphere.

7 ***Target***: see subsection 23(1).

8 ***target day***: see subsection 23(2).

9 ***Technology Investment Roadmap*** means the Technology
10 Investment Roadmap as in force or existing from time to time and
11 published on the Department's website.

12 Note: Information about the Technology Investment Roadmap could in 2021
13 be viewed on the Department's website
14 (<https://www.industry.gov.au>).

15 **^6 Crown to be bound**

- 16 (1) This Act binds the Crown in each of its capacities.
- 17 (2) This Act does not make the Crown liable to a pecuniary penalty or
18 to be prosecuted for an offence.
- 19 (3) The protection in subsection (2) does not apply to an authority of
20 the Crown.

21 **^7 Extension to external Territories**

22 This Act extends to every external Territory.

23 **^8 Interaction with other laws**

24 This Act has effect despite any other law of the Commonwealth,
25 whether enacted before or after the commencement of this Act.

1 **Division 2—Guiding principles**

2 **[^]9 Exception to requirements of this Division**

- 3 (1) This Division does not require a decision, policy, program or
4 process relating to performing functions or duties, or exercising
5 powers, to have regard to a principle or other thing to the extent
6 that the principle or other thing is not relevant to performing the
7 functions or duties or exercising the powers.
- 8 (2) Subsections (3) to (5) apply if, in accordance with subsection (1), a
9 decision, policy, program or process relating to performing
10 functions or duties, or exercising powers, under subsection [^]17(1),
11 [^]19(1), [^]24(1), [^]25(1), [^]28(1) or [^]33(1) does not have regard to a
12 principle or other thing to which this Division would have required
13 the decision, policy, program or process to have regard apart from
14 subsection (1) of this section.
- 15 (3) The person making the decision, setting the policy etc. must,
16 before, or as soon as practicable after making the decision, setting
17 the policy etc., prepare a written explanation of why the principle
18 or other thing is not relevant.
- 19 (4) If the person is the Minister, the Minister must cause the
20 explanation prepared under subsection (3) to be:
21 (a) tabled in each House of the Parliament within 15 sitting days
22 of that House after making the decision, setting the policy
23 etc; or
24 (b) in the case of a decision to exercise a power to make a
25 legislation instrument—included in the explanatory statement
26 for the legislative instrument.
- 27 (5) If the person is not the Minister:
28 (a) the person must give the explanation prepared under
29 subsection (3) to the Minister as soon as practicable after
30 making the decision, setting the policy etc.; and
31 (b) after receiving an explanation under paragraph (a) of this
32 subsection, the Minister must cause the explanation to be

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1 tabled in each House of the Parliament within 15 sitting days
2 of that House after the statement is given to the Minister.

3 **¹⁰ Principle of effective, efficient, equitable and early action**

4 A decision, policy, program or process relating to performing
5 functions or duties, or exercising powers, under this Act must have
6 regard to the following principles:

- 7 (a) effectiveness in reducing or adapting to climate change
8 impacts and in supporting an effective global response to
9 climate change;
- 10 (b) efficiency in doing so consistently with Australia's financial,
11 economic, health, environmental, industry, community,
12 human rights and foreign policy objectives;
- 13 (c) equity in regard to Australia's current and future households,
14 business, workers, communities and rural and regional
15 Australia, taking into account their social, cultural and
16 economic differences;
- 17 (d) earliness in regard to prioritising urgent and deep emissions
18 reductions consistent with the aim of reducing net accounting
19 emissions by 60% on 2005 levels by 2030.

20 **¹¹ Principle of informed decision making**

21 (1) A decision, policy, program or process relating to performing
22 functions or duties, or exercising powers, under this Act must have
23 regard to the following:

- 24 (a) the best available academic peer reviewed research and
25 public reports on:
26 (i) the contributing causes and potential impacts of climate
27 change; and
28 (ii) adaptation and mitigation responses to climate change;
- 29 (b) any Technology Investment Roadmap;
30 (c) the most recent low emissions technology statement.
- 31 (2) For the purposes of paragraph (1)(a), the best available academic
32 peer reviewed research and public reports includes research and

1 reports (which take precedence over other sources of information)
2 from the following:

- 3 (a) the Commission;
- 4 (b) the Intergovernmental Panel on Climate Change;
- 5 (c) the Bureau of Meteorology;
- 6 (d) the Commonwealth Scientific and Industrial Research
7 Organisation;
- 8 (e) the Australian Energy Market Operator;
- 9 (f) the Australian Prudential Regulation Authority;
- 10 (g) the Australian Securities and Investments Commission;
- 11 (h) the Reserve Bank of Australia;
- 12 (i) the Australian Climate Service;
- 13 (j) the National Recovery and Resilience Agency;
- 14 (k) Australian universities.

15 **^12 Principle of risk-based, integrated decision making**

16 A decision, policy, program or process relating to performing
17 functions or duties, or exercising powers, under this Act must have
18 regard to:

- 19 (a) assessing the long-term, medium-term and short-term
20 environmental, economic and community consequences
21 relating to climate change; and
- 22 (b) explicitly addressing the relevant climate change risks; and
- 23 (c) applying the precautionary principle to prevent likely serious
24 or irreversible loss; and
- 25 (d) coordinating and aligning adaptation and mitigation actions
26 to the greatest extent possible.

27 **^13 Principle of fiscal responsibility**

28 A decision, policy, program or process relating to performing
29 functions or duties, or exercising powers, under this Act must have
30 regard to the principle of seeking to maintain economic prosperity
31 and public finances over the long term, taking into account the
32 established evidence that:

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- 1 (a) the direct costs of climate change include damage to property
2 and infrastructure, the disruption of telecommunications,
3 essential services and business supply chains, reduced
4 agricultural and tourism revenue, and increased health,
5 migration and security costs; and
6 (b) the impact of those costs will weaken asset values, corporate
7 profitability, national productivity and public finances; and
8 (c) these costs are highly likely to be substantially greater than
9 the costs of mitigating climate change; and
10 (d) the costs of early action to mitigate climate change are highly
11 likely to be substantially lower than the costs of later action;
12 and
13 (e) the growing burden of debt upon future generations which, in
14 failing to act early, will grow significantly.

15 **¹⁴ Principle of fair employment transition**

16 A decision, policy, program or process relating to performing
17 functions or duties, or exercising powers, under this Act that may
18 affect employment in an industry or a geographic region must have
19 regard to the following:

- 20 (a) applying the principle of community engagement to any
21 affected communities;
22 (b) pursuing sustainable economic, social and ecological
23 solutions for those communities;
24 (c) prioritising employment transition opportunities to new or
25 existing industries within those communities;
26 (d) offering appropriate education and training for those
27 opportunities;
28 (e) allowing reasonable time for implementation of transition
29 solutions for those communities;
30 (f) for those unable to pursue transition opportunities—without
31 undermining the incentives for transition, providing a
32 mechanism for compensated redundancy or voluntary
33 redeployment of workers to other sites where the workers
34 wish to continue working.

1 **^15 Principle of community engagement and self-determination**

2 A decision, policy, program or process relating to performing
3 functions or duties, or exercising powers, under this Act must have
4 regard to:

- 5 (a) providing appropriate information to members of affected
6 communities, especially Indigenous, vulnerable or
7 marginalised communities; and
8 (b) enabling those communities to participate in its determination
9 or implementation, with adequate public consultation; and
10 (c) seeking from those communities free, prior and informed
11 consent; and
12 (d) undertaking any other type of consultation that is considered
13 necessary.

14 **^16 Principle of national and international cooperation**

15 A decision, policy, program or process relating to performing
16 functions or duties, or exercising powers, under this Act must have
17 regard to the following:

- 18 (a) pursuing a coherent, clear and effective policy framework
19 across the Commonwealth and the States and Territories;
20 (b) ensuring fulfilment of Australia's obligations under
21 international agreements;
22 (c) enabling Australia to play a leadership role internationally by
23 demonstrating that Australia's efforts reflect Australia's
24 highest possible ambition and fair share of international
25 action to both reduce emissions and enhance sinks of
26 greenhouse gases, considering Australia's:
27 (i) knowledge and understanding of climate change risks,
28 in particular the risks to Australia and to Australia's
29 regional neighbours; and
30 (ii) access to local and global technology; and
31 (iii) opportunities as a potentially significant generator of
32 renewable energy; and
33 (iv) opportunities as a potentially significant greenhouse gas
34 sink.

1 **Part 2—National climate change risk assessment**
2

3 **^17 Commission must complete assessment**

4 (1) The Commission must prepare and give to the Minister a national
5 climate change risk assessment:

- 6 (a) for the first assessment—no later than 1 year after the
7 commencement of this Act; and
8 (b) for later assessments—no later than 5 years after the day on
9 which the Commission published the previous assessment
10 under subsection (3).

11 (2) A national climate change risk assessment must:

- 12 (a) assess, along multiple global emissions pathway scenarios,
13 the risks from the current and future effects of climate change
14 to Australia's:
15 (i) economy; and
16 (ii) workers; and
17 (iii) society; and
18 (iv) agriculture; and
19 (v) environment; and
20 (vi) biodiversity;
21 and to anything else the Commission considers relevant; and
22 (b) identify the most significant risks to Australia, based on the
23 nature of the risks, their severity, probability and cost; and
24 (c) assess the need for coordinated responses to those risks in the
25 next 5 year period.

26 (3) As soon as practicable after the Commission gives the Minister a
27 national change risk assessment under subsection (1), the
28 Commission must publish the following on the Commission's
29 website:

- 30 (a) the assessment;

- 1 (b) any evidence commissioned to support the Commission's
2 preparation of the assessment (following any
3 de-identification of individuals required by privacy laws).

4 **^18 Factors to be taken into account**

- 5 In preparing a national climate change risk assessment, the
6 Commission must take into account the following:
- 7 (a) economic, social, health, water and food security,
8 environmental, ecological, and cultural effects of climate
9 change, including effects on Indigenous Australians;
 - 10 (b) the distribution of the effects of climate change across
11 society, taking particular account of vulnerable groups or
12 sectors;
 - 13 (c) Australia's relevant obligations under international
14 agreements;
 - 15 (d) how the assessment aligns or links with any other relevant
16 national risk assessments;
 - 17 (e) current effects and likely future effects of climate change;
 - 18 (f) the best available academic peer reviewed research and
19 public reports including that of:
 - 20 (i) the Bureau of Meteorology; and
 - 21 (ii) the Commonwealth Scientific and Industrial Research
22 Organisation; and
 - 23 (iii) Australian universities;
 - 24 (g) economic, financial and fiscal advice from financial
25 regulators, including the Australian Prudential Regulation
26 Authority, the Australian Securities and Investments
27 Commission and the Reserve Bank of Australia;
 - 28 (h) opportunities arising for Australia's economy, society,
29 regions and environment as a result of the effects of climate
30 change;
 - 31 (i) existing Commonwealth, State and Territory strategies,
32 policies and proposals in relation to climate change;
 - 33 (j) previous national climate change risk assessments;
 - 34 (k) any other relevant factors.

1 **Part 3—National adaptation plan**
2

3 **^19 Minister must determine national adaptation plan**

- 4 (1) If the Commission gives to the Minister a climate change risk
5 assessment, the Minister must, by legislative instrument, determine
6 a national adaptation plan in response to that assessment no later
7 than one year after the Commission publishes the assessment under
8 subsection ^17(3).
- 9 (2) The Minister must take all reasonable steps to ensure that a
10 national adaptation plan is in force at all times occurring:
11 (a) one year after the Commission publishes the first climate
12 change risk assessment under subsection ^17(3); or
13 (b) later.
- 14 (3) A national adaptation plan must set out the following:
15 (a) Australia's objectives to protect against and mitigate risks as
16 identified in the national climate change risk assessment;
17 (b) the strategies, policies, and proposals for meeting those
18 objectives;
19 (c) the time frames for implementing the strategies, policies, and
20 proposals;
21 (d) how the matters in paragraphs (a) to (c) address the most
22 significant risks identified in the most recent national climate
23 change risk assessment;
24 (e) the measures and indicators that will enable regular
25 monitoring of and reporting on the implementation of the
26 strategies, policies, and proposals;
27 (f) how the strategies, policies and proposals will be funded.
- 28 (4) A national adaptation plan may include any other matter that the
29 Minister considers relevant.

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- 1 (5) In making a legislative instrument under subsection (1), the
2 Minister must consider the factors listed in section ^18 and any
3 relevant advice or reports from the Commission.
- 4 (6) The explanatory statement for a legislative instrument made under
5 subsection (1) must include:
- 6 (a) copies of the advice or reports from the Commission which
7 the Minister considered in making the instrument; and
8 (b) if the Minister did not follow any of that advice—a statement
9 of the Minister’s reasons for not following the advice.

^20 Publication of plans

- 11 (1) If the Minister makes a legislative instrument under section ^19,
12 the Minister must give a copy of the legislative instrument to the
13 Commission as soon as practicable after the instrument is made.
- 14 (2) As soon as practicable after the Commission receives a copy of a
15 legislative instrument under subsection (1), the Commission must
16 publish the instrument on the Commission’s website.

^21 Implementing national adaptation plan

18 The Minister must take all reasonable steps to ensure that
19 Australia’s objectives set out in the current national adaptation plan
20 are achieved.

^22 Progress reports*Progress reports*

- 23 (1) For each national adaptation plan, the Commission must provide
24 the Minister with an annual progress report that evaluates the
25 implementation of the adaptation plan and its effectiveness.
- 26 (2) Each progress report must include:
- 27 (a) an assessment of the progress made towards implementing
28 the strategies, policies, and proposals included in the plan;
29 and

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- 1 (b) an assessment of the degree to which the objectives of the
2 plan have been achieved and how well the plan responds to
3 the most significant risks posed by climate change; and
4 (c) an identification of any known barriers to the implementation
5 and effectiveness of the current plan, including
6 recommendations for how those barriers might be addressed
7 or overcome in future; and
8 (d) any other relevant matters required to support the report.
- 9 (3) As soon as practicable after the Commission provides the annual
10 progress report to the Minister, the Commission must publish the
11 report on the Commission's website.
- 12 *Ministerial response*
- 13 (4) This Minister must, within 3 months after receiving an annual
14 progress report under subsection (1), prepare a statement in
15 response.
- 16 (5) The Minister must:
- 17 (a) give a copy of the statement to the Commission as soon as
18 practicable after the statement is completed; and
19 (b) cause the statement to be tabled in each House of the
20 Parliament within 15 sitting days of that House after the
21 Minister receives the annual progress report.
- 22 (6) As soon as practicable after the Commission receives a copy of a
23 statement under paragraph (5)(a), the Commission must publish the
24 statement on the Commission's website.

Part 4—Emissions reduction target

^23 The Target

- (1) In accordance with the guiding principles set out in Division 2 of Part 1, this Act sets a target (the *Target*) of net zero emissions for the emissions budget period ending on the target day.
- (2) The *target day* is:
 - (a) 31 December 2050; or
 - (b) if the Minister determines an earlier day under subsection (3)—that day.
- (3) The Minister may, by legislative instrument, determine a day for the purposes of paragraph (2)(b) if the Minister considers that there has been a significant change to any of the factors listed in paragraph ^25(2)(a) in relation to climate change.
- (4) Before making a legislative instrument under subsection (3), the Minister must obtain and consider the recommendations of the Commission on the proposed target day.

^24 Reviews of the Target

- (1) The Commission must review the Target, and advise the Minister of the outcome of the review and any recommendations whenever:
 - (a) the Minister sets an emissions budget under section ^28; or
 - (b) the Minister requests the Commission to review the Target.
- (2) The Commission must advise the Minister in writing of the outcome of the review, including any recommendations made in accordance with section ^25, and give the advice to the Minister:
 - (a) for a review required under paragraph (1)(a)—at the same time as giving the advice on the emissions budget under section ^29; or
 - (b) for a review required under paragraph (1)(b)—as soon as practicable following completion of the review.

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1 **^25 Recommendations to amend the Target**

- 2 (1) As a result of a review under section ^24, the Commission may
3 recommend a change to any of the following:
4 (a) the time frame for achievement of the Target;
5 (b) the levels of reductions of sources of emissions and increases
6 in sinks required by the Target;
7 (c) how the Target may be met.
- 8 (2) However, the Commission must not recommend a change to the
9 Target unless:
10 (a) significant change has occurred, or is likely to occur, since
11 the commencement of this Act to one or more of the
12 following in relation to climate change:
13 (i) global action;
14 (ii) best available academic peer reviewed research or
15 public reports;
16 (iii) Australia's economic or fiscal circumstances;
17 (iv) Australia's obligations under relevant international
18 agreements;
19 (v) technological developments;
20 (vi) distributional impacts;
21 (vii) equity implications (including intergenerational equity);
22 (viii) the principal risks and uncertainties associated with
23 reductions of emissions and removals of greenhouse
24 gases;
25 (ix) social, cultural, environmental and ecological
26 circumstances; and
27 (b) the Commission is satisfied that the significant change
28 justifies the change to the Target.
- 29 (3) As soon as practicable after the Commission makes a
30 recommendation under subsection (1), the Commission must
31 publish the recommendation on the Commission's website.

- 1 (4) The Minister must, within 3 months after receiving a
2 recommendation under subsection (1), prepare a statement in
3 response.
- 4 (5) Without limiting subsection (4), if the Minister decides not to
5 accept the recommendation, the statement must include the
6 Minister's reasons for deciding not to accept the recommendation.
- 7 (6) The Minister must:
- 8 (a) give a copy of the statement to the Commission as soon as
9 practicable after the statement is completed; and
- 10 (b) cause the statement to be tabled in each House of the
11 Parliament within 15 sitting days of that House after the
12 statement is completed.
- 13 (7) As soon as practicable after the Commission receives a copy of a
14 statement under paragraph (6)(a), the Commission must publish the
15 statement on the Commission's website.

16 **^26 Achieving the Target**

17 The Minister must take all reasonable steps to ensure that the
18 Target is achieved.

19 **^27 Fossil fuel export emissions**

- 20 (1) The Commission must report to the Minister on the effect of
21 Australia's fossil fuel export emissions in meeting the objects of
22 this Act before each of the following:
- 23 (a) the first anniversary of the commencement of this Act;
24 (b) the end of each two year period after that anniversary.
- 25 (2) The Minister may, by legislative instrument, determine:
- 26 (a) the meaning of *fossil fuel export emissions*; and
27 (b) the method for accounting for fossil fuel export emissions.
- 28 (3) However, the Minister must not make a determination under
29 subsection (2) unless:

Part 4 Emissions reduction target

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- 1 (a) the Minister has referred the proposed determination to the
2 Commission; and
3 (b) the Commission has provided advice on the proposal.
- 4 (4) The Commission must publish a report prepared under
5 subsection (1), or advice provided under paragraph (3)(b), on the
6 Commission's website as soon as practicable after the report or
7 advice is given to the Minister.
- 8 Note: Fossil fuel export emissions are not relevant to calculating net
9 accounting emissions.

1 **Part 5—Setting emissions budgets etc.**

2 **Division 1—Emissions budgets**

3 **^{^28} Minister to set emissions budgets**

4 (1) The Minister must, by legislative instrument, set an emissions
5 budget for each emissions budget period.

6 (2) An *emissions budget* means an amount of emissions for an
7 emissions budget period expressed as a net amount of carbon
8 dioxide equivalent.

9 (3) There must be 2 consecutive emissions budgets in place at any one
10 time.

11 (4) An emissions budget must be set:

12 (a) for the emissions budget period beginning 1 January 2023 or
13 1 January 2026—by 31 December 2022; and

14 (b) for the emissions budget period beginning 1 January 2031—
15 by 31 December 2025; and

16 (c) for the emissions budget period beginning 1 January 2036—
17 by 31 December 2030; and

18 (d) for the emissions budget period beginning 1 January 2041—
19 by 31 December 2035; and

20 (e) for the emissions budget period beginning 1 January 2046—
21 by 31 December 2040; and

22 (f) for any later emissions budget period—not less than 10 years
23 before that emissions budget period commences.

24 (5) The Minister must ensure that the net accounting emissions for an
25 emissions budget period do not exceed the emissions budget for the
26 period.

27 (6) Before setting an emissions budget under subsection (1), the
28 Minister must obtain and consider the advice of the Commission
29 on the proposed budget.

Part 5 Setting emissions budgets etc.

Division 1 Emissions budgets

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1 (7) The Commission must publish its advice on the Commission's
2 website as soon as practicable after the Commission gives the
3 advice to the Minister.

4 *Ministerial response*

5 (8) The Minister must, within 3 months after receiving the advice,
6 prepare a statement in response.

7 (9) Without limiting subsection (8), if the Minister decides not to
8 follow the advice, the statement must include the Minister's
9 reasons for deciding not to follow the advice.

10 (10) The Minister must:

11 (a) give a copy of the statement to the Commission as soon as
12 practicable after the statement is completed; and

13 (b) cause the statement to be tabled in each House of the
14 Parliament within 15 sitting days of that House after the
15 statement is completed.

16 (11) As soon as practicable after the Commission receives a copy of the
17 statement under paragraph (10)(a), the Commission must publish
18 the statement on the Commission's website.

19 *Emissions units and credits earned during previous budget periods*
20 *etc.*

21 (12) In setting an emissions budget under subsection (1), the Minister
22 must not take into account any emissions units or credits held or
23 earned during previous emissions budget periods or under
24 international agreements (including the Kyoto Protocol).

25 **^29 Commission to advise Minister**

26 (1) The Commission must advise the Minister on the following matters
27 relevant to setting an emissions budget:

28 (a) the amount of emissions that will be permitted in each
29 emissions budget period;

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- 1 (b) how to measure progress towards meeting emissions budgets
2 and the Target;
- 3 (c) the means by which emissions budgets and the Target may be
4 met (including pricing and policy methods);
- 5 (d) the proportion of an emissions budget to be met through
6 reductions of emissions, and removal of greenhouse gases, in
7 Australia;
- 8 (e) the amount by which emissions of each greenhouse gas
9 should be reduced to meet emissions budgets and the Target.
- 10 (2) In providing advice under subsection (1), the Commission must
11 have regard to the guiding principles set out in Division 2 of Part 1
12 and the matters set out in section ^30.
- 13 (3) Before providing advice to the Minister under subsection (1), the
14 Commission must:
- 15 (a) make the proposed advice publicly available and invite
16 submissions on the advice; and
- 17 (b) allow adequate time and opportunity for any submissions to
18 be received, heard and considered by the Commission.
- 19 (4) The Commission must provide advice under subsection (1):
- 20 (a) for the emissions budgets for the first 2 emissions budget
21 periods—within 6 months after the commencement of this
22 Act; and
- 23 (b) for any other emissions budget—no later than 12 months
24 before the emissions budget must be set under section ^28.

^30 Matters relevant to emissions budgets

- 25
- 26 (1) This section applies:
- 27 (a) to the Commission when the Commission is preparing advice
28 for the Minister under section ^29; and
- 29 (b) to the Minister when the Minister is setting an emissions
30 budget under section ^28.
- 31 (2) The Commission and the Minister must:

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- 1 (a) have regard to how the emissions budget and the Target may
2 be met, including considering the following:
- 3 (i) the key opportunities for reductions of emissions, and
4 removal of greenhouse gases, in Australia;
- 5 (ii) the principal risks and uncertainties associated with
6 those reductions and removals; and
- 7 (b) have regard to the following matters:
- 8 (i) the emissions and removal of greenhouse gases
9 projected for the emissions budget period;
- 10 (ii) a broad range of domestic and international scientific
11 advice;
- 12 (iii) existing technology and anticipated technological
13 developments, including the costs and benefits of early
14 adoption of these in Australia;
- 15 (iv) maintaining energy security, reliability and
16 affordability;
- 17 (v) the results of public consultation on a proposed
18 emissions budget;
- 19 (vi) the likely impact of actions taken to achieve an
20 emissions budget and the Target, including on the
21 ability to adapt to climate change;
- 22 (vii) the distribution of those impacts across the States and
23 Territories, and from generation to generation;
- 24 (viii) the impact on rural, regional and remote Australia;
- 25 (ix) the likely impact on employment and workers;
- 26 (x) economic circumstances and the likely impact on
27 taxation, public spending, and public borrowing;
- 28 (xi) the implications, or potential implications, of land-use
29 change for communities;
- 30 (xii) responses to climate change taken or planned by parties
31 to the Paris Agreement or the Climate Change
32 Convention;
- 33 (xiii) Australia's relevant obligations under international
34 agreements.

1 **^31 Meeting the emissions budget**

2 The Minister must take all reasonable steps to ensure that each
3 emissions budget that is in place is met.

4 **^32 Commission to report at end of emissions budget period**

5 (1) No later than one year after the end of an emissions budget period,
6 the Commission must prepare a report for the Minister evaluating
7 the progress made during that emissions budget period towards
8 meeting the relevant emissions budget.

9 (2) The report must include an evaluation of how well the emissions
10 reduction plan has contributed to that progress.

11 *Ministerial response*

12 (3) The Minister must, within 3 months after receiving the report,
13 prepare a statement in response.

14 (4) The Minister must:

15 (a) give a copy of the statement to the Commission as soon as
16 practicable after the statement is completed; and

17 (b) cause the statement to be tabled in each House of the
18 Parliament within 15 sitting days of that House after the
19 statement is completed.

20 (5) As soon as practicable after the Commission receives a copy of a
21 statement under paragraph (4)(a), the Commission must publish the
22 statement on the Commission's website.

1 **Division 2—Emissions reduction plans**

2 **^33 Requirement for emissions reduction plan**

- 3 (1) The Minister must, by legislative instrument, determine an
4 emissions reduction plan setting out the policies and strategies for
5 meeting each emissions budget.
- 6 (2) The Minister must take all reasonable steps to ensure that, after the
7 emissions budget has been set under section ^28, an emissions
8 reduction plan in relation to the budget is in place at all times
9 during the relevant emissions budget period.
- 10 (3) The plan must include:
- 11 (a) sector-specific policies to reduce emissions and increase
12 removals of greenhouse gases; and
- 13 (b) a multi-sector strategy to meet emissions budgets and
14 improve the ability of those sectors to adapt to the effects of
15 climate change; and
- 16 (c) a strategy to mitigate the impacts that reducing emissions and
17 increasing removals of greenhouse gases will have on
18 employees and employers, rural and regional Australia,
19 Indigenous Australians and wider communities, including the
20 funding for any mitigation action; and
- 21 (d) policies, strategies and proposals for the deployment and
22 development of low emissions technologies; and
- 23 (e) any other policies or strategies that the Minister considers
24 necessary.
- 25 (4) Before making a legislative instrument under subsection (1), the
26 Minister must obtain and consider the advice of the following:
- 27 (a) State and Territory ministers with responsibility for climate
28 change or emissions reduction;
- 29 (b) the Commission.
- 30 (5) The Minister must give a copy of a legislative instrument made
31 under subsection (1) to the Commission as soon as practicable

1 (and, in any event, no later than 15 business days) after the
2 Minister makes the instrument.

3 (6) As soon as practicable after the Commission receives a copy of a
4 legislative instrument under subsection (5), the Commission must
5 publish the instrument on the Commission's website.

6 **[^]34 Commission to advise on emissions reduction plans**

7 (1) Not later than 24 months before the beginning of an emissions
8 budget period, the Commission must provide to the Minister advice
9 on the direction of the policy required in the emissions reduction
10 plan for that emissions budget period.

11 (2) The Commission must publish the advice on the Commission's
12 website as soon as practicable after the Commission gives the
13 advice to the Minister.

14 (3) Despite subsection (1), the advice for the emissions budget plan for
15 the emissions budget period beginning 1 January 2023 must be
16 given within 6 months after the commencement of this Act.

17 (4) In preparing advice under subsection (1), the Commission must
18 apply subsection [^]30(2) as if that subsection included a reference
19 to preparing an emissions reduction plan.

20 *Ministerial explanation*

21 (5) If the Minister decides not to follow advice given to the Minister
22 under subsection (1), the Minister must prepare a statement
23 explaining why the Minister has decided not to follow the advice.

24 (6) The Minister must:

25 (a) give a copy of the statement to the Commission as soon as
26 practicable after the statement is completed; and

27 (b) cause the statement to be tabled in each House of the
28 Parliament within 15 sitting days of that House after the
29 statement is completed.

Part 5 Setting emissions budgets etc.

Division 2 Emissions reduction plans

Section ³⁴

- 1 (7) As soon as practicable after the Commission receives a copy of a
2 statement under paragraph (6)(a), the Commission must publish the
3 statement on the Commission's website.

1 **Part 6—Climate Change Commission**

2 **Division 1—Establishment, functions and powers**

3 **[^]35 Climate Change Commission**

- 4 (1) The Climate Change Commission is established by this section.
- 5 (2) For the purposes of the finance law (within the meaning of the
6 *Public Governance, Performance and Accountability Act 2013*):
- 7 (a) the Commission is a listed entity; and
- 8 (b) the CEO is the accountable authority of the Commission; and
- 9 (c) the following persons are officials of the Commission:
- 10 (i) the CEO;
- 11 (ii) a member of the Commission;
- 12 (iii) the staff of the Commission;
- 13 (iv) persons whose services are made available to the
14 Commission under section [^]71;
- 15 (v) consultants engaged under section [^]72;
- 16 (vi) a member of a committee; and
- 17 (d) the purposes of the Commission include the functions of the
18 Commission referred to in section [^]36.

19 **[^]36 Functions of the Commission**

20 The Commission has the following functions:

- 21 (a) to advise the Minister to enable the preparation of emissions
22 budgets;
- 23 (b) to advise on any necessary amendments to emissions
24 budgets;
- 25 (c) to advise the Minister to enable the preparation of emissions
26 reduction plans;
- 27 (d) to monitor and report on progress towards meeting emissions
28 budgets and the Target;

Part 6 Climate Change Commission
Division 1 Establishment, functions and powers

Section [^]37

- 1 (e) to prepare national climate change risk assessments and low
2 emissions technology statements;
- 3 (f) to prepare reports on the implementation of national
4 adaptation plans;
- 5 (g) to conduct reviews under:
- 6 (i) section 306 of the *Carbon Credits (Carbon Farming*
7 *Initiative) Act 2011*; and
- 8 (ii) sections 76A and 76B of the *National Greenhouse and*
9 *Energy Reporting Act 2007*; and
- 10 (iii) this Act.

11 **[^]37 Powers**

12 The Commission has power to do all things necessary or
13 convenient to be done for or in connection with the performance of
14 its functions.

15 Note: The CEO may enter into contracts and other arrangements on behalf
16 of the Commonwealth. See section 23 of the *Public Governance,*
17 *Performance and Accountability Act 2013*.

18 **[^]38 Commission not subject to direction**

19 The Commission is not subject to direction by, or on behalf of, the
20 Commonwealth Government in relation to the performance of a
21 function, or the exercise of a power, by the Commission.

1 **Division 2—Membership of the Commission etc**

2 **[^]39 Commission members**

3 The Commission consists of the following members:

- 4 (a) a Chair;
- 5 (b) Australia’s Chief Scientist;
- 6 (c) a minimum of five, and not more than seven, other members.

7 **[^]40 Appointment of members of the Commission**

- 8 (1) Each member of the Commission (other than the Chief Scientist) is
- 9 to be appointed by the Minister by written instrument.

10 Note: A member of the Commission may be reappointed: see section 33AA

11 of the *Acts Interpretation Act 1901*.

- 12 (2) In appointing a member, the Minister must ensure that the
- 13 Commission (taken as a whole) has experience in, or knowledge
- 14 of, the following:

- 15 (a) business competitiveness;
- 16 (b) climate change policy;
- 17 (c) climate science;
- 18 (d) economic analysis and forecasting;
- 19 (e) energy production and supply;
- 20 (f) financial investment;
- 21 (g) regional development;
- 22 (h) industrial relations;
- 23 (i) agriculture;
- 24 (j) technology development and diffusion.

- 25 (3) The Chief Scientist holds office on a part-time basis.

- 26 (4) The other members of the Commission may hold office either on a
- 27 full-time or part-time basis.

- 28 (5) The Minister must ensure that, at all times:

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- 1 (a) at least one member of the Commission is a person who has
2 experience in, or knowledge of, climate science; and
3 (b) at least one member of the Commission is a person who has
4 experience in, or knowledge of, climate policy; and
5 (c) at least one member of the Commission is an Indigenous
6 Australian.
- 7 (6) Paragraph (5)(c) has effect despite Part II of the *Racial*
8 *Discrimination Act 1975*.

9 **^41 Approval of proposed appointment by Parliamentary Joint**
10 **Committee on Climate Adaptation and Mitigation**

- 11 (1) The Minister must not appoint a person under subsection ^40(1)
12 unless:
13 (a) the Minister has referred the proposed appointment to the
14 Parliamentary Joint Committee on Climate Adaptation and
15 Mitigation; and
16 (b) the Committee has approved the proposal.
- 17 Note: Section ^51 provides for the establishment and membership of the
18 Joint Committee.
- 19 (2) A referral under paragraph (1)(a) must be in writing and may be
20 withdrawn by the Minister at any time.
- 21 (3) If the Minister refers a proposed appointment to the Joint
22 Committee for approval under paragraph (1)(a), the Committee
23 must:
24 (a) approve or reject the proposal within 14 days after receiving
25 it; or
26 (b) notify the Minister under subsection (5).
- 27 (4) The Joint Committee may request the Minister to provide further
28 information in relation to the proposal.
- 29 (5) The Joint Committee may notify the Minister within 14 days after
30 receiving a proposal that it needs more time to consider the
31 proposal. If the Joint Committee does so, the Committee must
32 approve or reject the proposal within 44 days after receiving it.

- 1 (6) The decision to approve or reject a proposal is to be by a majority
2 of the members of the Joint Committee for the time being holding
3 office.
- 4 (7) If the Joint Committee does not make a decision on a proposal by
5 the required time, the Joint Committee is taken, at that time, to
6 have approved the proposal.
- 7 (8) The Joint Committee must notify the Minister, in writing, of its
8 decision on a proposal as soon as practicable after making the
9 decision.
- 10 (9) The Joint Committee must report to both Houses of the Parliament
11 on its decision on a proposal.

12 **^42 Period of appointment for members of the Commission**

13 A member of the Commission (other than the Chief Scientist)
14 holds office for the period specified in the instrument of
15 appointment. The period must not exceed 5 years.

16 **^43 Acting members of the Commission**

17 *Acting Chair of the Commission*

- 18 (1) The Minister may, by written instrument, appoint a person to act as
19 the Chair of the Commission:
- 20 (a) during a vacancy in the office of the Chair of the
21 Commission (whether or not an appointment has previously
22 been made to the office); or
- 23 (b) during any period, or during all periods, when the Chair of
24 the Commission:
- 25 (i) is absent from duty or Australia; or
26 (ii) is, for any reason, unable to perform the duties of the
27 office.

28 Note: For rules that apply to acting appointments, see sections 33AB and
29 33A of the *Acts Interpretation Act 1901*.

Part 6 Climate Change Commission

Division 2 Membership of the Commission etc

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- 1 *Acting member of the Commission (other than the Chair of the*
2 *Commission or the Chief Scientist)*
- 3 (2) The Minister may, by written instrument, appoint a person to act as
4 a member of the Commission (other than the Chair of the
5 Commission or the Chief Scientist):
- 6 (a) during a vacancy in the office of a member of the
7 Commission (other than the Chair of the Commission or the
8 Chief Scientist), whether or not an appointment has
9 previously been made to the office; or
- 10 (b) during any period, or during all periods, when a member of
11 the Commission (other than the Chair of the Commission or
12 the Chief Scientist):
- 13 (i) is absent from duty or Australia; or
14 (ii) is, for any reason, unable to perform the duties of the
15 office.
- 16 Note: For rules that apply to acting appointments, see sections 33AB and
17 33A of the *Acts Interpretation Act 1901*.

1 **Division 3—Terms and conditions for members of the**
2 **Commission**

3 **[^]44 Remuneration**

- 4 (1) A member of the Commission is to be paid the remuneration that is
5 determined by the Remuneration Tribunal. If no determination of
6 that remuneration by the Tribunal is in operation, the member is to
7 be paid the remuneration that is prescribed by the rules.
- 8 (2) A member of the Commission is to be paid the allowances that are
9 prescribed by the rules.
- 10 (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973*
11 do not apply in relation to the office of a member of the
12 Commission.

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

- 16 (4) This section has effect subject to the *Remuneration Tribunal Act*
17 *1973* (except as provided by subsection (3)).

18 **[^]45 Disclosure of interests**

- 19 (1) A disclosure by a member of the Commission under section 29 of
20 the *Public Governance, Performance and Accountability Act 2013*
21 (which deals with the duty to disclose interests) must be made to
22 the Minister.
- 23 (2) Subsection (1) applies in addition to any rules made for the
24 purposes of section 29 of the *Public Governance, Performance and*
25 *Accountability Act 2013*.
- 26 (3) For the purposes of this Act and the *Public Governance,*
27 *Performance and Accountability Act 2013*, a member of the
28 Commission is taken not to have complied with section 29 of that
29 Act if the member does not comply with subsection (1) of this
30 section.

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1 **46 Paid work**

- 2 (1) If a member of the Commission is appointed on a full-time basis,
3 the member must not engage in paid work outside the duties of the
4 member's office without the Minister's approval.
- 5 (2) If a member of the Commission is appointed on a part-time basis,
6 the member must not engage in any paid work that, in the
7 Minister's opinion, conflicts or could conflict with the proper
8 performance of the member's duties.

9 **47 Leave of absence**

- 10 (1) If a member of the Commission is appointed on a full-time basis:
11 (a) the member has the recreation leave entitlements that are
12 determined by the Remuneration Tribunal; and
13 (b) the Minister may grant the member leave of absence, other
14 than recreation leave, on the terms and conditions as to
15 remuneration or otherwise that the Minister determines.
- 16 (2) If a member of the Commission is appointed on a part-time basis,
17 the Minister may grant the member leave of absence on the terms
18 and conditions that the Minister determines.

19 **48 Resignation**

- 20 (1) A member of the Commission may resign the member's
21 appointment by giving the Minister a written resignation.
- 22 (2) The resignation takes effect on the day it is received by the
23 Minister or, if a later day is specified in the resignation, on that
24 later day.

25 **49 Termination of appointment**

- 26 (1) The Minister may terminate the appointment of a member of the
27 Commission:
28 (a) for misbehaviour; or

- 1 (b) if the member is unable to perform the duties of the
2 member's office because of physical or mental incapacity.
- 3 (2) The Minister may terminate the appointment of a member of the
4 Commission if:
- 5 (a) the member:
- 6 (i) becomes bankrupt; or
7 (ii) applies to take the benefit of any law for the relief of
8 bankrupt or insolvent debtors; or
9 (iii) compounds with the member's creditors; or
10 (iv) makes an assignment of the member's remuneration for
11 the benefit of the member's creditors; or
- 12 (b) if the member is appointed on a full-time basis—the member
13 is absent, except on leave of absence, for 14 consecutive days
14 or for 28 days in any 12 months; or
- 15 (c) if the member is appointed on a full-time basis—the member
16 engages, except with the Minister's approval, in paid work
17 outside the duties of the member's office (see
18 subsection [^]46(1)); or
- 19 (d) if the member is appointed on a part-time basis—the member
20 engages in paid work that conflicts or may conflict with the
21 proper performance of the member's duties (see
22 subsection [^]46(2)); or
- 23 (e) in any case—the member fails, without reasonable excuse, to
24 comply with section 29 of the *Public Governance,*
25 *Performance and Accountability Act 2013* (which deals with
26 the duty to disclose interests) or rules made for the purposes
27 of that section.

28 **[^]50 Other terms and conditions**

29 A member of the Commission holds office on the terms and
30 conditions (if any) in relation to matters not covered by this Act
31 that are determined by the Minister.

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1 **Division 4—Parliamentary Joint Committee on Climate**
2 **Adaptation and Mitigation**

3 **^51 Parliamentary Joint Committee on Climate Adaptation and**
4 **Mitigation**

- 5 (1) As soon as practicable after the commencement of the first session
6 of each Parliament, a joint committee of members of the
7 Parliament, to be known as the Parliamentary Joint Committee on
8 Climate Adaptation and Mitigation, is to be appointed according to
9 the practice of the Parliament.
- 10 (2) The Joint Committee is to consist of 11 members:
11 (a) 5 members of the Senate appointed by the Senate; and
12 (b) 6 members of the House of Representatives appointed by that
13 House.
- 14 (3) A member of the Joint Committee ceases to hold office:
15 (a) when the House of Representatives expires by effluxion of
16 time or is dissolved; or
17 (b) if the member ceases to be a member of the House of the
18 Parliament by which the member was appointed; or
19 (c) if the member resigns the member’s office as provided by
20 subsection (4) or (5).
- 21 (4) A member appointed by the Senate may resign the member’s office
22 by writing signed by the member and delivered to the President of
23 the Senate.
- 24 (5) A member appointed by the House of Representatives may resign
25 the member’s office by writing signed by the member and
26 delivered to the Speaker of that House.
- 27 (6) Either House of the Parliament may appoint one of its members to
28 fill a vacancy amongst the members of the Joint Committee
29 appointed by that House.

1 **^52 Powers and proceedings of the Joint Committee**

2 All matters relating to the powers and proceedings of the Joint
3 Committee are to be determined by resolution of both Houses of
4 the Parliament.

5 **^53 Functions of the Joint Committee**

6 The functions of the Joint Committee are:

- 7 (a) to approve proposals for appointment of members to the
8 Commission; and
9 (b) to review the administration and expenditure of the
10 Commission; and
11 (c) to review any matter in relation to the Commission referred
12 to the Joint Committee by:
13 (i) the Minister; or
14 (ii) a resolution of either House of the Parliament.

1 **Division 5—Decision making of the Commission**

2 **^54 Convening meetings**

3 (1) The Commission must hold such meetings as are necessary for the
4 efficient performance of its functions.

5 (2) The Chair of the Commission may convene a meeting at any time.

6 **^55 Presiding at meetings**

7 (1) The Chair of the Commission presides at all meetings at which the
8 Chair is present.

9 (2) If the Chair of the Commission is not present at a meeting, the
10 Commission members present must appoint one of themselves to
11 preside.

12 **^56 Quorum**

13 (1) At a meeting of the Commission, a quorum is constituted by 5
14 Commission members.

15 (2) However, if:

16 (a) a member of the Commission is required by rules made for
17 the purposes of section 29 of the *Public Governance,*
18 *Performance and Accountability Act 2013* not to be present
19 during the deliberations, or to take part in any decision, of the
20 Commission with respect to a particular matter; and

21 (b) when the member of the Commission leaves the meeting
22 concerned there is no longer a quorum present;
23 the remaining members of the Commission at the meeting
24 constitute a quorum for the purpose of any deliberation or decision
25 at that meeting with respect to that matter.

1 **^57 Voting at meetings**

2 (1) A question arising at a meeting of the Commission is to be
3 determined by a majority of the votes of the Commission members
4 present and voting.

5 (2) The person presiding at a meeting of the Commission has a
6 deliberative vote and, if the votes are equal, a casting vote.

7 **^58 Conduct of meetings**

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

10 Note: Section 33B of the *Acts Interpretation Act 1901* contains further
11 information about the ways in which members of the Commission
12 may participate in meetings.

13 **^59 Minutes**

14 The Commission must keep minutes of its meetings.

1 **Division 6—Chief Executive Officer of the Commission**

2 **^60 Establishment**

3 There is to be a Chief Executive Officer of the Commission.

4 **^61 Role**

5 (1) The CEO is responsible for the day-to-day administration of the
6 Commission.

7 (2) The CEO has power to do all things necessary or convenient to be
8 done for or in connection with the performance of the CEO's
9 duties.

10 (3) The CEO is to act in accordance with the policies determined, and
11 any directions given, by the Commission.

12 (4) However, the CEO is not subject to direction by the Commission in
13 relation to the CEO's performance of functions, or exercise of
14 powers, under:

15 (a) the *Public Governance, Performance and Accountability Act*
16 *2013*; or

17 (b) the *Public Service Act 1999*.

18 **^62 Appointment**

19 (1) The CEO is to be appointed by the Minister by written instrument.

20 Note: The CEO may be reappointed: see section 33AA of the *Acts*
21 *Interpretation Act 1901*.

22 (2) Before appointing a person as the CEO, the Minister must consult
23 the Commission.

24 (3) The CEO holds office on a full-time basis.

25 (4) The CEO holds office for the period specified in the instrument of
26 appointment. The period must not exceed 5 years.

1 Note: The CEO may be reappointed: see section 33AA of the *Acts*
2 *Interpretation Act 1901*.

3 **^63 Acting appointments**

4 The Minister may, by written instrument, appoint a person to act as
5 the CEO:

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

12 Note: For rules that apply to acting appointments, see sections 33AB and
13 33A of the *Acts Interpretation Act 1901*.

14 **^64 Paid work**

15 The CEO must not engage in paid work outside the duties of the
16 CEO's office without the approval of the Minister.

17 **^65 Remuneration**

18 (1) The CEO is to be paid the remuneration that is determined by the
19 Remuneration Tribunal. If no determination of that remuneration
20 by the Tribunal is in operation, the CEO is to be paid the
21 remuneration that is prescribed by the rules.

22 (2) The CEO is to be paid the allowances that are prescribed by the
23 rules.

24 (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973*
25 do not apply in relation to the office of the CEO.

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

29 (4) This section has effect subject to the *Remuneration Tribunal Act*
30 *1973* (except as provided by subsection (3)).

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1 **^66 Leave**

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

7 **^67 Resignation**

- 8 (1) The CEO may resign the CEO's appointment by giving the
9 Minister a written resignation.
- 10 (2) The resignation takes effect on the day it is received by the
11 Minister or, if a later day is specified in the resignation, on that
12 later day.
- 13 (3) If the CEO resigns, the Minister must notify the Commission of the
14 resignation.

15 **^68 Termination of appointment**

- 16 (1) The Minister may terminate the appointment of the CEO for:
17 (a) for misbehaviour; or
18 (b) if the CEO is unable to perform the duties of the CEO's
19 office because of physical or mental incapacity.
- 20 (2) The Minister must terminate the appointment of the CEO if:
21 (a) the CEO:
22 (i) becomes bankrupt; or
23 (ii) applies to take the benefit of any law for the relief of
24 bankrupt or insolvent debtors; or
25 (iii) compounds with the CEO's creditors; or
26 (iv) makes an assignment of the CEO's remuneration for the
27 benefit of the CEO's creditors; or
28 (b) the CEO is absent, except on leave of absence, for 14
29 consecutive days or for 28 days in any 12 months; or

Section ^69

1 (d) the CEO engages, except with the approval of the Minister,
2 in paid work outside the duties of the CEO's office (see
3 section ^64).

4 (3) Before terminating the appointment of the CEO, the Minister must
5 consult the Commission.

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

11 **^69 Other terms and conditions**

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

1 **Division 7—Staff of the Commission**

2 **^70 Staff**

3 (1) The staff of the Commission are to be persons engaged under the
4 *Public Service Act 1999*.

5 (2) For the purposes of the *Public Service Act 1999*:

6 (a) the CEO and the staff of the Commission together constitute
7 a Statutory Agency; and

8 (b) the CEO is the Head of that Statutory Agency.

9 **^71 Persons assisting the Commission**

10 The Commission may also be assisted:

11 (a) by officers and employees of Agencies (within the meaning
12 of the *Public Service Act 1999*); or

13 (b) by officers and employees of authorities of the
14 Commonwealth; or

15 (c) by officers and employees of a State or Territory; or

16 (d) by officers and employees of authorities of a State or
17 Territory;

18 whose services are made available to the Commission in
19 connection with the performance of any of its functions.

20 **^72 Consultants**

21 The CEO may, on behalf of the Commonwealth, engage
22 consultants to assist in the performance of the Commission's
23 functions.

1 **Division 8—Committees**

2 **Subdivision A—Committees**

3 **[^]73 Committees**

4 (1) The Commission:

5 (a) may establish committees, consisting of such persons
6 (whether members of the Commission or not) as the
7 Commission determines, to advise the Commission in the
8 performance of its functions and the exercise of its powers;
9 and

10 (b) may abolish any such committee.

11 (2) The Commission may determine:

12 (a) the manner in which a committee established under this
13 section is to perform its functions; and

14 (b) the procedure to be followed at or in relation to meetings of
15 the committee, including matters with respect to:

16 (i) the convening of meetings of the committee; and

17 (ii) the number of members of the committee who are to
18 constitute a quorum; and

19 (iii) the selection of a member of the committee to preside at
20 meetings of the committee; and

21 (iv) the manner in which questions arising at a meeting of
22 the committee are to be decided.

Section ⁴74

1 **Subdivision B—Terms and conditions for members of**
2 **committees**

3 **⁴74 Remuneration**

- 4 (1) A member of a committee is to be paid the remuneration that is
5 determined by the Remuneration Tribunal. If no determination of
6 that remuneration by the Tribunal is in operation, the member is to
7 be paid the remuneration that is prescribed by the rules.
- 8 (2) A member of a committee is to be paid the allowances that are
9 prescribed by the rules.
- 10 (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973*
11 do not apply in relation to the office of a member of a committee.
- 12 Note: The effect of this subsection is that remuneration or allowances of a
13 member of a committee will be paid out of money appropriated by an
14 Act other than the *Remuneration Tribunal Act 1973*.
- 15 (4) This section has effect subject to the *Remuneration Tribunal Act*
16 *1973* (except as provided by subsection (3)).

17 **⁵75 Paid work**

- 18 (1) If a member of a committee is appointed on a full-time basis, the
19 member must not engage in paid work outside the duties of the
20 member’s office without the Commission’s approval.
- 21 (2) If a member of a committee is appointed on a part-time basis, the
22 member must not engage in any paid work that, in the
23 Commission’s opinion, conflicts or could conflict with the proper
24 performance of the member’s duties.

25 **⁶76 Leave of absence**

- 26 (1) If a member of a committee is appointed on a full-time basis:
27 (a) the member has the recreation leave entitlements that are
28 determined by the Remuneration Tribunal; and

- 1 (b) the Commission may grant the member leave of absence,
2 other than recreation leave, on the terms and conditions as to
3 remuneration or otherwise that the Commission determines.
- 4 (2) If a member of a committee is appointed on a part-time basis, the
5 Commission may grant the member leave of absence on the terms
6 and conditions that the Commission determines.

7 **^77 Resignation**

- 8 (1) A member of a committee may resign the member's appointment
9 by giving the Commission a written resignation.
- 10 (2) The resignation takes effect on the day it is received by the
11 Commission or, if a later day is specified in the resignation, on that
12 later day.

13 **^78 Termination of appointment**

- 14 (1) The Commission may terminate the appointment of a member of a
15 committee:
16 (a) for misbehaviour; or
17 (b) if the member is unable to perform the duties of the
18 member's office because of physical or mental incapacity.
- 19 (2) The Commission may terminate the appointment of a member of a
20 committee if:
21 (a) the member:
22 (i) becomes bankrupt; or
23 (ii) applies to take the benefit of any law for the relief of
24 bankrupt or insolvent debtors; or
25 (iii) compounds with the member's creditors; or
26 (iv) makes an assignment of the member's remuneration for
27 the benefit of the member's creditors; or
28 (b) if the member is appointed on a full-time basis—the member
29 is absent, except on leave of absence, for 14 consecutive days
30 or for 28 days in any 12 months; or

Section ^79

- 1 (c) if the member is appointed on a full-time basis—the member
2 engages, except with the Commission’s approval, in paid
3 work outside the duties of the member’s office (see
4 subsection ^75(1)); or
5 (d) if the member is appointed on a part-time basis—the member
6 engages in paid work that conflicts or may conflict with the
7 proper performance of the member’s duties (see
8 subsection ^75(2)); or
9 (e) in any case—the member fails, without reasonable excuse, to
10 comply with section 29 of the *Public Governance,*
11 *Performance and Accountability Act 2013* (which deals with
12 the duty to disclose interests) or rules made for the purposes
13 of that section.

14 **^79 Other terms and conditions**

15 A member of a committee holds office on the terms and conditions
16 (if any) in relation to matters not covered by this Act that are
17 determined by the Commission.

Part 7—Miscellaneous**^80 Annual report**

The annual report prepared by the Commission and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include details of:

- (a) emissions and removals of greenhouse gases (as reported in the National Greenhouse Gas Inventory) for the most recent year figures are available; and
- (b) the latest projections for current and future emissions and removals of greenhouse gases; and
- (c) an assessment of the adequacy of the emissions reduction plan to which the period relates and progress in its implementation, including any new opportunities to reduce emissions; and
- (d) a statement (a *low emissions technology statement*) that includes the following:
 - (i) a summary of progress towards the Commonwealth's defined technology goals;
 - (ii) an update of global technological developments;
 - (iii) a review of the Clean Energy Finance Corporation and Australian Renewable Energy Agency's investment portfolios;
 - (iv) any recommendations to improve the performance of those agencies in assisting efforts to deploy and develop low emissions technologies; and
- (e) a measurement of progress towards:
 - (i) implementing the relevant emissions reduction plan; and
 - (ii) meeting the emissions budget for the current emissions budget period and the Target.

Section ^81

1 **^81 Response to annual report**

- 2 (1) The Minister must, within 3 months after receiving the
3 Commission's annual report, prepare a statement that includes the
4 following:
5 (a) the Minister's response to the Commission's report and any
6 recommendations;
7 (b) a description of the progress made in implementing the
8 emissions reduction plan to which the annual report relates;
9 (c) any amendments to that emissions reduction plan.
- 10 (2) The Minister must:
11 (a) give a copy of the statement to the Commission as soon as
12 practicable after the statement is completed; and
13 (b) cause the statement to be tabled in each House of the
14 Parliament within 15 sitting days of that House after the
15 statement is completed.
- 16 (3) As soon as practicable after the Commission receives a copy of a
17 statement under paragraph (2)(a), the Commission must publish the
18 statement on the Commission's website.

19 **^82 Minister or Commission may request information**

- 20 (1) The Minister or the Commission may, in writing, request that a
21 constitutional corporation provide all or any of the following
22 information:
23 (a) a description of the corporation's governance in relation to
24 the risks of, and opportunities arising from, climate change;
25 (b) a description of the actual and potential effects of the risks
26 and opportunities on the corporation's business, strategy, and
27 financial planning;
28 (c) a description of the processes that the corporation uses to
29 identify, assess, and manage the risks;
30 (d) a description of the metrics and targets used to assess and
31 manage the risks and opportunities, including, if relevant,
32 time frames and progress;
33 (e) any other matters prescribed by the rules.

Section **^83**

- 1 (2) A request made under subsection (1) must be reasonable.
- 2 (3) A constitutional corporation commits an offence if the corporation
3 fails to comply with a request made under subsection (1).
- 4 Penalty: 50 penalty units.
- 5 (4) Subsection (3) does not apply if the requested information:
6 (a) is commercial-in-confidence; or
7 (b) contains a trade secret.
- 8 Note: A defendant bears an evidential burden in relation to the matter in
9 subsection (4): see subsection 13.3(3) of the *Criminal Code*.
- 10 (5) The Minister must, as soon as practicable, provide the Commission
11 with a copy of any information received in response to a request
12 made by the Minister under subsection (1).
- 13 (6) The Commission must, as soon as practicable, provide the Minister
14 with a copy of any information received in response to a request
15 made by the Commission.
- 16 (7) The Minister and the Commission must not publicly disclose any
17 information received in response to a request, unless disclosure of
18 the information is necessary to enable the Minister or the
19 Commission to perform a function or duty under this Act.
- 20 (8) Subsection (7) does not apply in respect of information that is
21 already in the public domain.
- 22 (9) Before publicly disclosing any information received in response to
23 a request, the Minister or Commission must consult with the
24 person to whom the information relates.

^83 Concurrent operation of State and Territory laws

26 This Act is not intended to exclude or limit the operation of a law
27 of a State or Territory that is capable of operating concurrently
28 with this Act.

Section 84

1 **84 Review of operation of this Act**

- 2 (1) The Minister must cause periodic reviews of the operation of this
3 Act to be undertaken.
- 4 (2) The first review must:
5 (a) start no later than 10 years after the commencement of this
6 Act; and
7 (b) be completed within 12 months or a longer period agreed by
8 the Minister.
- 9 (3) Subsequent reviews must:
10 (a) start no later than every 10 years after the commencement of
11 this Act; and
12 (b) be completed within 12 months or a longer period agreed by
13 the Minister.
- 14 (4) The Minister must cause a written report about each review to be
15 prepared. A review is taken to be completed when the Minister is
16 given the report about the review.
- 17 (5) The Minister must cause a copy of the report about each review to
18 be laid before each House of the Parliament within 15 sitting days
19 of that House after the Minister receives the report.

20 **85 Legislative instruments made under this Act are disallowable**

21 Section 44 of the *Legislation Act 2003* (legislative instruments that
22 are not subject to disallowance) does not apply to a legislative
23 instrument made under this Act.

24 **86 Rules**

- 25 (1) The Minister may, by legislative instrument, make rules (*rules*)
26 prescribing matters:
27 (a) required or permitted by this Act to be prescribed by the
28 rules; or
29 (b) necessary or convenient to be prescribed for carrying out or
30 giving effect to this Act.

- 1 (2) To avoid doubt, the general rules may not do the following:
- 2 (a) create an offence or civil penalty;
- 3 (b) provide powers of:
- 4 (i) arrest or detention; or
- 5 (ii) entry, search or seizure;
- 6 (c) impose a tax;
- 7 (d) set an amount to be appropriated from the Consolidated
- 8 Revenue Fund under an appropriation in this Act;
- 9 (e) directly amend the text of this Act.