

EXPOSURE DRAFT

2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Climate Change Authority (Abolition) Bill 2013

No. , 2013

(Environment)

**A Bill for an Act to abolish the Climate Change
Authority, and for other purposes**

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A Bill for an Act to abolish the Climate Change Authority, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Climate Change Authority (Abolition) Act 2013*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	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.	
3. Schedule 1, Part 2, Division 1	The day after this Act receives the Royal Assent. However, the provision(s) covered by this table item do not commence at all if Part 1 of Schedule 1 to the <i>Clean Energy Legislation (Carbon Tax Repeal) Act 2013</i> commences before the day after this Act	

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Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
	receives the Royal Assent.	
4. Schedule 1, Part 2, Division 2	The day after this Act receives the Royal Assent.	
5. Schedule 1, Part 2, Division 3	At the same time as the provision(s) covered by table item 2.	
6. Schedule 1, Part 3	At the same time as the provision(s) covered by table item 2.	

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

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

7 3 Schedule(s)

8 (1) Each Act, and each set of regulations, that is specified in a
9 Schedule to this Act is amended or repealed as set out in the
10 applicable items in the Schedule concerned, and any other item in a
11 Schedule to this Act has effect according to its terms.

12 (2) The amendment of any regulation under subsection (1) does not
13 prevent the regulation, as so amended, from being amended or
14 repealed by the Governor-General.

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Amendments **Schedule 1**
Repeal **Part 1**

1 **Schedule 1—Amendments**

2 **Part 1—Repeal**

3 *Climate Change Authority Act 2011*

4 **1 The whole of the Act**

5 Repeal the Act.

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Schedule 1 Amendments

Part 2 Amendments

1 **Part 2—Amendments**

2 **Division 1—Reviews under the Clean Energy Act 2011**

3 *Clean Energy Act 2011*

4 **2 Section 4**

5 Omit:

- 6

<ul style="list-style-type: none">• The Climate Change Authority will conduct periodic reviews
--
- 7 of this Act.

8 **3 Paragraph 14(2)(b)**

9 Repeal the paragraph.

10 **4 Subsections 123(1A) and 123A(10)**

11 Repeal the subsections.

12 **5 Subsection 156(7)**

13 Repeal the subsection.

14 **6 Paragraph 157(5)(a)**

15 Repeal the paragraph.

16 **7 Part 22**

17 Repeal the Part.

18 **Division 2—Other reviews**

19 *Carbon Credits (Carbon Farming Initiative) Act 2011*

20 **8 Section 306**

21 Repeal the section, substitute:

1 **306 Reviews of the operation of this Act etc.**

- 2 (1) The Minister must cause to be conducted reviews of the operation
3 of:
4 (a) this Act; and
5 (b) legislative instruments under this Act.

6 *Public consultation*

- 7 (2) A review under subsection (1) must make provision for public
8 consultation.

9 *Report*

- 10 (3) The Minister must cause to be prepared a report of a review under
11 subsection (1).
12 (4) The Minister must cause copies of a report under subsection (3) to
13 be tabled in each House of the Parliament within 15 sitting days of
14 that House after the completion of the preparation of the report.

15 *First review*

- 16 (5) The report of the first review under subsection (1) must be tabled
17 under subsection (4) before the end of 31 December 2016.

18 *Subsequent reviews*

- 19 (6) The report of each subsequent review under subsection (1) must be
20 tabled under subsection (4) within 3 years after the report of the
21 previous review was tabled under subsection (4).

22 ***National Greenhouse and Energy Reporting Act 2007***

23 **9 Sections 76A and 76B**

24 Repeal the sections, substitute:

25 **76A Periodic reviews of the operation of this Act etc.**

- 26 (1) The Minister must cause to be conducted reviews of the operation
27 of:
28 (a) this Act; and
29 (b) legislative instruments under this Act.
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Schedule 1 Amendments

Part 2 Amendments

1 *Public consultation*

2 (2) A review under subsection (1) must make provision for public
3 consultation.

4 *Report*

5 (3) The Minister must cause to be prepared a report of a review under
6 subsection (1).

7 (4) The Minister must cause copies of a report under subsection (3) to
8 be tabled in each House of the Parliament within 15 sitting days of
9 that House after the completion of the preparation of the report.

10 *First review*

11 (5) The report of the first review under subsection (1) must be tabled
12 under subsection (4) before the end of 30 June 2018.

13 *Subsequent reviews*

14 (6) The report of each subsequent review under subsection (1) must be
15 tabled under subsection (4) within 5 years after the report of the
16 previous review was tabled under subsection (4).

17 ***Renewable Energy (Electricity) Act 2000***

18 **10 Section 162**

19 Repeal the section, substitute:

20 **162 Periodic reviews of the operation of renewable energy legislation**
21 **etc.**

22 (1) The Minister must cause to be conducted reviews of the following:

23 (a) the operation of this Act and the scheme constituted by this
24 Act;

25 (b) the operation of the regulations;

26 (c) the operation of the *Renewable Energy (Electricity)*
27 *(Large-scale Generation Shortfall Charge) Act 2000*;

28 (d) the operation of the *Renewable Energy (Electricity)*
29 *(Small-scale Technology Shortfall Charge) Act 2010*;

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Amendments **Schedule 1**
Amendments **Part 2**

- 1 (e) the diversity of renewable energy access to the scheme
2 constituted by this Act, to be considered with reference to a
3 cost benefit analysis of the environmental and economic
4 impact of that access.
- 5 (2) The Minister may cause a particular review under subsection (1) to
6 include a review of additional matters relating to the following:
7 (a) the impact of this Act and the scheme constituted by this Act;
8 (b) the impact of the regulations;
9 (c) the impact of the *Renewable Energy (Electricity)*
10 *(Large-scale Generation Shortfall Charge) Act 2000*;
11 (d) the impact of the *Renewable Energy (Electricity)*
12 *(Small-scale Technology Shortfall Charge) Act 2010*.

13 *Public consultation*

- 14 (3) A review under subsection (1) must make provision for public
15 consultation.

16 *Report*

- 17 (4) The Minister must cause to be prepared a report of a review under
18 subsection (1).
- 19 (5) The Minister must cause copies of a report under subsection (4) to
20 be tabled in each House of the Parliament within 15 sitting days of
21 that House after the completion of the preparation of the report.

22 *First review*

- 23 (6) The report of the first review under subsection (1) must be tabled
24 under subsection (5) before the end of 31 December 2014.

25 *Subsequent reviews*

- 26 (7) The report of each subsequent review under subsection (1) must be
27 tabled under subsection (5) within 2 years after the report of the
28 previous review was tabled under subsection (5).

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Schedule 1 Amendments

Part 2 Amendments

1 **Division 3—Other amendments**

2 *Australian Securities and Investments Commission Act 2001*

3 **11 Paragraph 127(2A)(e)**

4 Omit “Regulator;”, substitute “Regulator.”.

5 **12 Paragraph 127(2A)(f)**

6 Repeal the paragraph.

7 *Clean Energy Regulator Act 2011*

8 **13 Paragraphs 49(1)(s) and (t)**

9 Repeal the paragraphs.

10 *Competition and Consumer Act 2010*

11 **14 Paragraph 44AAF(3)(cb)**

12 Repeal the paragraph.

13 **15 Paragraph 44AAF(3)(d)**

14 Omit “(c), (ca) or (cb)”, substitute “(c) or (ca)”.

15 **16 Paragraph 155AAA(12)(lb)**

16 Repeal the paragraph.

17 *Financial Management and Accountability Regulations 1997*

18 **17 Item 133A of Schedule 1**

19 Repeal the item.

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Amendments **Schedule 1**
Transitional provisions **Part 3**

1 **Part 3—Transitional provisions**

2 **Division 1—Introduction**

3 **18 Definitions**

4 In this Part:

5 ***asset*** means:

- 6 (a) any legal or equitable estate or interest in real or personal
7 property, whether actual, contingent or prospective; and
8 (b) any right, power, privilege or immunity, whether actual,
9 contingent or prospective.

10 ***assets official***, in relation to an asset other than land, means the person
11 or authority who:

- 12 (a) under a law of the Commonwealth, a State or a Territory; or
13 (b) under a trust instrument; or
14 (c) otherwise;

15 has responsibility for keeping a register in relation to assets of the kind
16 concerned.

17 ***land*** means any legal or equitable estate or interest in real property,
18 whether actual, contingent or prospective.

19 ***land registration official***, in relation to land, means the Registrar of
20 Titles or other proper officer of the State or Territory in which the land
21 is situated.

22 ***liability*** means any liability, duty or obligation, whether actual,
23 contingent or prospective.

24 ***Secretary*** means the Secretary of the Department.

25 ***transition time*** means the commencement of this Part.

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Schedule 1 Amendments

Part 3 Transitional provisions

1 **Division 2—Transfer of assets and liabilities**

2 **19 Vesting of assets of the Climate Change Authority**

- 3 (1) This item applies to the assets of the Climate Change Authority
4 immediately before the transition time.
- 5 (2) At the transition time, the assets cease to be assets of the Climate
6 Change Authority and become assets of the Commonwealth without
7 any conveyance, transfer or assignment. The Commonwealth becomes
8 the successor in law in relation to the assets.

9 **20 Vesting of liabilities of the Climate Change Authority**

- 10 (1) This item applies to the liabilities of the Climate Change Authority
11 immediately before the transition time.
- 12 (2) At the transition time, the liabilities cease to be liabilities of the Climate
13 Change Authority and become liabilities of the Commonwealth without
14 any conveyance, transfer or assignment. The Commonwealth becomes
15 the successor in law in relation to the liabilities.

16 **21 Transfers of land may be registered**

- 17 (1) This item applies if:
- 18 (a) any land vests in the Commonwealth under this Division; and
19 (b) there is lodged with a land registration official a certificate
20 that:
- 21 (i) is signed by the Minister; and
22 (ii) identifies the land, whether by reference to a map or
23 otherwise; and
24 (iii) states that the land has become vested in the
25 Commonwealth under this Division.
- 26 (2) The land registration official may:
- 27 (a) register the matter in a way that is the same as, or similar to,
28 the way in which dealings in land of that kind are registered;
29 and
30 (b) deal with, and give effect to, the certificate.
- 31 (3) A certificate under paragraph (1)(b) is not a legislative instrument.

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Amendments **Schedule 1**
Transitional provisions **Part 3**

1 **22 Certificates relating to vesting of assets other than land**

2 (1) This item applies if:

3 (a) any asset other than land vests in the Commonwealth under
4 this Division; and

5 (b) there is lodged with an assets official a certificate that:

6 (i) is signed by the Minister; and

7 (ii) identifies the asset; and

8 (iii) states that the asset has become vested in the
9 Commonwealth under this Division.

10 (2) The assets official may:

11 (a) deal with, and give effect to, the certificate as if it were a
12 proper and appropriate instrument for transactions in relation
13 to assets of that kind; and

14 (b) make such entries in the register as are necessary having
15 regard to the effect of this Division.

16 (3) A certificate under paragraph (1)(b) is not a legislative instrument.

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Schedule 1 Amendments

Part 3 Transitional provisions

1 **Division 3—Transfer of other matters**

2 **23 Acts of the Climate Change Authority to be attributed to**
3 **the Commonwealth**

- 4 (1) This item applies to anything done by, or in relation to, the Climate
5 Change Authority before the transition time.
- 6 (2) After the transition time, the thing has effect as if it had been done by,
7 or in relation to, the Commonwealth.

8 **24 Substitution of the Commonwealth as a party to certain**
9 **pending proceedings**

- 10 (1) This item applies if any proceedings to which the Climate Change
11 Authority was a party were pending in any court or tribunal
12 immediately before the transition time.
- 13 (2) The Commonwealth is substituted for the Climate Change Authority,
14 from the transition time, as a party to the proceedings.

15 **25 Transfer of records to the Department**

- 16 (1) This item applies to any records or documents that were in the
17 possession of the Climate Change Authority immediately before the
18 transition time.
- 19 (2) The records and documents are to be transferred to the Department after
20 the transition time.

21 Note: The records and documents are Commonwealth records for the purposes of the *Archives*
22 *Act 1983*.

23 **26 Protection of information obtained from the Clean Energy**
24 **Regulator**

25 If:

- 26 (a) before the transition time, information was disclosed to:
27 (i) the Climate Change Authority; or
28 (ii) the Land Sector Carbon and Biodiversity Board;
29 under subsection 49(2) of the *Clean Energy Regulator Act*
30 *2011*; and

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Amendments **Schedule 1**
Transitional provisions **Part 3**

1 (b) immediately before the transition time, a person was subject
2 to a condition under subsection 49(3) of that Act in relation
3 to the information disclosed;

4 the person continues to be subject to the condition after the transition
5 time.

6 **27 Transfer of Ombudsman investigations**

7 If:

8 (a) before the transition time, a complaint was made to the
9 Ombudsman, or the Ombudsman began an investigation,
10 under the *Ombudsman Act 1976* in relation to an action taken
11 by the Climate Change Authority; and

12 (b) immediately before the transition time, the Ombudsman had
13 not finally disposed of the matter in accordance with the
14 *Ombudsman Act 1976*;

15 the *Ombudsman Act 1976* applies after the transition time as if that
16 action had been taken by the Department.

17 **28 References in certain instruments to the Climate Change** 18 **Authority**

19 (1) If:

20 (a) an instrument was in force immediately before the transition
21 time; and

22 (b) a reference is made in the instrument to the Climate Change
23 Authority; and

24 (c) the instrument is an instrument covered by one or more of the
25 following subparagraphs:

26 (i) an instrument that was made by the Climate Change
27 Authority;

28 (ii) an instrument to which the Climate Change Authority
29 was a party;

30 (iii) an instrument that was given to, or in favour of, the
31 Climate Change Authority;

32 (iv) an instrument under which any right or liability accrues
33 or may accrue to the Climate Change Authority;

34 (v) any other instrument in which a reference is made to the
35 Climate Change Authority;

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Schedule 1 Amendments

Part 3 Transitional provisions

1 the reference has effect after the transition time as if it were a reference
2 to the Commonwealth.

3 (2) In this item:

4 *exempt instrument* has the meaning given by subitem (3).

5 *instrument*:

6 (a) includes:

7 (i) a contract, deed, undertaking or agreement; and

8 (ii) a notice, authority, order or instruction; and

9 (iii) an instrument made under an Act or under regulations;
10 but

11 (b) does not include an exempt instrument.

12 (3) For the purposes of this item, *exempt instrument* means:

13 (a) an Act; or

14 (b) an instrument made under this Act; or

15 (c) an instrument specified in an instrument under subitem (4).

16 (4) The Minister may, by legislative instrument, specify one or more
17 instruments for the purposes of paragraph (3)(c).

18 **29 Transfer of appropriated money**

19 (1) For the purposes of the operation of an Appropriation Act after the
20 transition time, references to the Climate Change Authority are to be
21 read as references to the Department.

22 (2) In this item:

23 *Appropriation Act* means an Act appropriating money for expenditure
24 out of the Consolidated Revenue Fund.

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Amendments **Schedule 1**
Transitional provisions **Part 3**

1 **Division 4—Reporting obligations**

2 **30 Final annual report—Climate Change Authority**

- 3 (1) The Secretary must prepare and give to the Minister, for presentation to
4 the Parliament, a report on the operations of the Climate Change
5 Authority during the final reporting period.
- 6 (2) Subsections 56(2) and (3) of the *Climate Change Authority Act 2011* (as
7 in force immediately before the transition time) apply to the report as if
8 a reference in those subsections to a financial year were a reference to
9 the final reporting period.
- 10 (3) The Secretary must give the report to the Minister within 3 months after
11 the end of the final reporting period. The Minister may grant an
12 extension of time in special circumstances.
- 13 (4) The Minister must table the report in each House of the Parliament as
14 soon as practicable.
- 15 (5) The Secretary must publish the report on the Department’s website as
16 soon as practicable after the report is tabled in the House of
17 Representatives.
- 18 (6) In this item:
- 19 ***final reporting period*** means the period:
- 20 (a) beginning at the start of the financial year in which the
21 transition time occurs; and
22 (b) ending immediately before the transition time.

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Schedule 1 Amendments

Part 3 Transitional provisions

1 **Division 5—Miscellaneous**

2 **31 Exemption from stamp duty and other State or Territory**
3 **taxes**

- 4 (1) No stamp duty or other tax is payable under a law of a State or a
5 Territory in respect of an exempt matter, or anything connected with an
6 exempt matter.
- 7 (2) For the purposes of this item, an *exempt matter* is:
8 (a) the vesting of an asset or liability under this Part; or
9 (b) the operation of this Part in any other respect.
- 10 (3) The Minister may certify in writing:
11 (a) that a specified matter is an exempt matter; or
12 (b) that a specified thing was connected with a specified exempt
13 matter.
- 14 (4) In all courts, and for all purposes (other than for the purposes of
15 criminal proceedings), a certificate under subitem (3) is prima facie
16 evidence of the matters stated in the certificate.

17 **32 Certificates taken to be authentic**

- 18 A document that appears to be a certificate made or issued under a
19 particular provision of this Part:
20 (a) is taken to be such a certificate; and
21 (b) is taken to have been properly given;
22 unless the contrary is established.

23 **33 Delegation by Minister**

- 24 (1) The Minister may, by writing, delegate all or any of his or her powers
25 and functions under this Part to a person.
- 26 (2) The delegate must be:
27 (a) the Secretary; or
28 (b) an SES employee, or acting SES employee, in the
29 Department.

30 Note: *SES employee* and *acting SES employee* are defined in the *Acts Interpretation Act*
31 *1901*.

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Amendments **Schedule 1**
Transitional provisions **Part 3**

1 (3) In exercising powers or functions under a delegation, the delegate must
2 comply with any directions of the Minister.

3 (4) Subitem (1) does not apply to a power to make, vary or revoke a
4 legislative instrument.

5 **34 Transitional—section 82 of the *Climate Change Authority*** 6 ***Act 2011***

7 (1) Despite the repeal of section 82 of the *Climate Change Authority Act*
8 *2011* by this Schedule, that section continues to apply, in relation to
9 anything done or omitted to be done before the transition time, as if that
10 repeal had not happened.

11 (2) This item does not limit the operation of section 7 of the *Acts*
12 *Interpretation Act 1901*.

13 **35 Compensation for acquisition of property**

14 (1) If the operation of this Schedule would result in an acquisition of
15 property (within the meaning of paragraph 51(xxxi) of the Constitution)
16 from a person otherwise than on just terms (within the meaning of that
17 paragraph), the Commonwealth is liable to pay a reasonable amount of
18 compensation to the person.

19 (2) If the Commonwealth and the person do not agree on the amount of the
20 compensation, the person may institute proceedings in a court of
21 competent jurisdiction for the recovery from the Commonwealth of
22 such reasonable amount of compensation as the court determines.

23 **36 Transitional rules**

24 The Minister may, by legislative instrument, make rules in relation to
25 transitional matters arising out of the amendments and repeals made by
26 this Schedule.