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

No. , 2021

*GHagrid MP
Minister for Energy
(Zali Steggall and GHagrid)*

**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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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

The Parliament of Australia enacts:

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Part 1—Introduction

Division 1—Preliminary

1 Short title

This Act is the *Climate Change (National Framework for Adaptation and Mitigation) Act 2020*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Sections 3 to 75	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.	

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Objects of this Act

- (1) This Act recognises:
 - (a) that climate change is a serious challenge to Australia's prosperity and security and this requires a planned transition towards a net zero emissions economy and the implementation of adaptation measures to protect livelihoods, business and the environment; and
 - (b) that decisions under this Act should be consistent with limiting the increase in global warming to well below 2°C and pursuing efforts to limit it to 1.5°C above pre-industrial levels.
- (2) The objects of this Act are to establish a framework to address the challenge of climate change, including by doing the following:
 - (a) setting a target of achieving net zero emissions by a target day (which is 31 December 2050 unless the Minister determines an earlier day because of a significant change in relevant factors);
 - (b) providing for a system of emissions budgeting;
 - (c) assessing the risk of, and preparing for, climate change impacts;
 - (d) assisting the national economy to adapt to climate change;
 - (e) establishing an independent body to ensure accountable and transparent plans to manage the climate challenge;
 - (f) aligning government and the private sector in the assessment of climate risks;
 - (g) providing policy certainty to assist the private sector in decision making;
 - (h) assisting and guiding the taking of action by government and the community to reduce emissions in order to meet Australia's obligations under the following:
 - (i) the Climate Change Convention;
 - (ii) the Kyoto protocol;
 - (iii) the Paris Agreement;
 - (iv) any other international agreement relating to climate change.

4 Simplified outline of this Act

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

Decision makers must have regard to 7 guiding principles when performing functions or duties or exercising powers under this Act or provisions of other prescribed Acts.

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

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

This Act sets a target of net zero emissions by a target day (which is 31 December 2050). The target day can be changed by the Minister if there is a significant change in factors relevant to the target.

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

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

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

5 Definitions

In this Act:

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

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

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

CEO means the Chief Executive Officer of the Commission.

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

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

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 2 ([1994] ATS 2) and in 2020 could be viewed in the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

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

Commission means the Climate Change Commission established by section 32.

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

eligible offset has the meaning given by the rules.

emissions means an emission of greenhouse gas within the meaning of the *National Greenhouse and Energy Reporting Act 2007*.

emissions budget: see subsection 26(2).

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emissions budget period means the following:

- (a) the 4 year period beginning 1 January 2022;
- (b) the 5 year period beginning 1 January 2026;
- (c) each later 5 year period.

fossil fuel export emissions: see subsection 25(2).

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

gross emissions means Australia's total emissions from the agriculture, energy, industrial processes and waste sectors (as reported in the National Greenhouse Gas Inventory).

Indigenous Australian means:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of an Indigenous inhabitant of the Torres Strait Islands.

international agreements means an international instrument intended to be binding on Australia, including a treaty, convention, protocol, covenant, agreement, exchange of letters and memorandum of understanding, and also includes the arrangements and guidelines adopted under those instruments.

Kyoto Protocol means the Kyoto Protocol to the United Nations Framework Convention on Climate Change done at Kyoto on 11 December 1997, as amended and in force for Australia from time to time.

Note: The text of the Kyoto Protocol is in Australian Treaty Series 2008 No. 2 ([2008] ATS 2) and could in 2020 be viewed in the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

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

low emissions technology statement: see paragraph 70(d).

net accounting emissions means the total of gross emissions and emissions from land use, land-use change, and forestry sectors (as

reported in the National Greenhouse Inventory), less the sum of the following:

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

net zero emissions means zero net accounting emissions.

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

Note: The Agreement is in Australian Treaty Series 2016 No. 24 ([2016] ATS 24) and could in 2020 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

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

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

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

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

rules means rules made under section 75.

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

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

Target: see subsection 22(1).

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target day: see subsection 22(2).

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

Note: Information about the Technology Investment Roadmap could in 2020 be viewed on the Department's website (<https://www.industry.gov.au>)

6 Crown to be bound

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

7 Extension to external Territories

This Act extends to every external Territory.

8 Interaction with other laws

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

Division 2—Guiding principles

9 Decision makers must have regard to guiding principles

This Division applies in relation to the performance of functions or duties, or exercise of powers, under this Act.

10 Principle of effective, efficient and equitable action

A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies must have regard to the following principles:

- (a) effectiveness in reducing or adapting to climate change impacts and in supporting an effective global response to climate change;
- (b) efficiency in doing so consistently with Australia's financial, economic, health, environmental, industry, community, human rights and foreign policy objectives;
- (c) equity in regard to Australia's households, business, workers, communities and rural and regional Australia, taking into account their social and economic differences.

11 Principle of informed decision making

- (1) A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies must have regard to the following:
 - (a) the best available academic peer reviewed research and public reports on the contributing causes and potential impacts of climate change;
 - (b) any Technology Investment Roadmap;
 - (c) the most recent low emissions technology statement.
- (2) For the purposes of paragraph (1)(a), the best available academic peer reviewed research and public reports includes research and reports (which take precedence over other sources of information) from the following:
 - (a) the Commission;

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- (b) the Intergovernmental Panel on Climate Change;
- (c) the Bureau of Meteorology;
- (d) the Commonwealth Scientific and Industrial Research Organisation;
- (e) the Australian Energy Market Operator;
- (f) the Energy Security Board;
- (g) the Australian Prudential Regulation Authority;
- (h) the Australian Securities and Investments Commission;
- (i) the Reserve Bank of Australia.

12 Principle of risk-based, integrated decision making

A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies must have regard to:

- (a) assessing the competing long-term, medium-term and short-term environmental, economic and community consequences relating to climate change; and
- (b) explicitly addressing the relevant climate change risks; and
- (c) applying the precautionary principle to prevent likely serious or irreversible loss.

13 Principle of fiscal responsibility

A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies must have regard to the principle of seeking to maintain economic prosperity and public finances over the long term, taking into account the established evidence that:

- (a) the direct costs of climate change include damage to property and infrastructure, the disruption of telecommunications, essential services and business supply chains, reduced agricultural and tourism revenue, and increased health, migration and security costs; and
- (b) the impact of those costs will weaken asset values, corporate profitability, national productivity and public finances; and

- (c) these costs are highly likely to be substantially greater than the costs of mitigating climate change; and
- (d) the costs of early action to mitigate climate change are highly likely to be substantially lower than the costs of later action; and
- (e) the growing burden of debt upon future generations which, in failing to act early, will grow significantly.

14 Principle of fair employment transition

A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies that may affect employment in an industry or a geographic region must have regard to the following:

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

15 Principle of community engagement and self-determination

A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies must have regard to:

- (a) providing appropriate information to members of affected communities, especially vulnerable or marginalised communities, and

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- (b) enabling those communities to be involved in its determination or implementation, with adequate public consultation.

16 Principle of national and international cooperation

A decision, policy, program or process relating to performing functions or duties, or exercising powers, to which this Division applies must have regard to the following:

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

16A

Part 2—National climate change risk assessment

17 Commission must complete assessment

- (1) The Commission must prepare and give to the Minister a national climate change risk assessment:
 - (a) for the first assessment—no later than 1 year after the commencement of this Act; and

- (b) for later assessments—no later than 5 years after the day on which the previous assessment was made publicly available.
- (2) A national climate change risk assessment must:
 - (a) assess, along multiple global emissions pathway scenarios, the risks to Australia’s economy, workers, society, agriculture, environment, and biodiversity from the current and future effects of climate change; and
 - (b) identify the most significant risks to Australia, based on the nature of the risks, their severity, probability and cost; and
 - (c) assess the need for coordinated responses to those risks in the next 5 year period.
- (3) A national climate change risk assessment must be published on the Commission’s website as soon as practicable after the assessment is completed.
- (4) At the same time as making a national climate change risk assessment publicly available under subsection (3), the Commission must make any evidence commissioned to support its preparation publicly available.

18 Factors to be taken into account

In preparing a national climate change risk assessment, the Commission must take into account the following:

- (a) economic, social, health, water and food security, environmental, ecological, and cultural effects of climate change,
- (b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors;
- (c) Australia’s relevant obligations under international agreements;
- (d) how the assessment aligns or links with any other relevant national risk assessments;
- (e) current effects and likely future effects of climate change;
- (f) the best available academic peer reviewed research and public reports including that of the Bureau of Meteorology,

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and Commonwealth Scientific and Industrial Research Organisation;

- (g) economic, financial and fiscal advice from financial regulators, including the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission and the Reserve Bank of Australia;
- (h) opportunities arising for Australia's economy, society, regions and environment as a result of the effects of climate change;
- (i) existing State and Territory strategies, policies and proposals in relation to climate change;
- (j) any other relevant factors.

Part 3—National adaptation plan

19 Minister must prepare national adaptation plan

- (1) In response to each national climate change risk assessment, the Minister must prepare a national adaptation plan.
- (2) A national adaptation plan must be completed no later than one year after the date on which the national climate change risk assessment to which the plan relates is made publicly available.
- (3) A national adaptation plan must set out the following:
 - (a) Australia's objectives to protect against and mitigate risks as identified in the national climate change risk assessment;
 - (b) the strategies, policies, and proposals for meeting those objectives;
 - (c) the time frames for implementing the strategies, policies, and proposals;
 - (d) how the matters in paragraphs (a) to (c) address the most significant risks identified in the most recent national climate change risk assessment;
 - (e) the measures and indicators that will enable regular monitoring of and reporting on the implementation of the strategies, policies, and proposals;
 - (f) how the strategies, policies and proposals will be funded.
- (4) A national adaptation plan may include any other matter that the Minister considers relevant.
- (5) In preparing a national adaptation plan, the Minister must consider the factors listed in section 18 and any relevant advice or reports from the Commission.
- (6) In preparing a national adaptation plan, the Minister must undertake public consultation on the draft plan.

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20 Tabling and publication of plans

- (1) The Minister must cause a national adaptation plan prepared under section 19 to be tabled in each House of the Parliament within 15 sitting days of that house after the plan is prepared.
- (2) A national adaptation plan must be published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.

21 Progress reports

- (1) For each national adaptation plan, the Commission must provide the Minister with an annual progress report that evaluates the implementation of the adaptation plan and its effectiveness.
- (2) Each progress report must include:
 - (a) an assessment of the progress made towards implementing the strategies, policies, and proposals included in the plan; and
 - (b) an assessment of the degree to which the objectives of the plan have been achieved and how well the plan responds to the most significant risks posed by climate change; and
 - (c) an identification of any known barriers to the implementation and effectiveness of the current plan, including recommendations for how those barriers might be addressed or overcome in future; and
 - (d) any other relevant matters required to support the report.
- (3) The annual progress report must be published on the Commission's website as soon as practicable after the report is completed.
- (4) After receiving an annual progress report under subsection (1), the Minister must prepare a statement in response. The Minister must cause the statement to be:
 - (a) tabled in each House of the Parliament within 15 sitting days of that house after the statement is completed; and
 - (b) published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.

Part 4—Emissions reduction target

22 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 subsection (2) if the Minister considers that there has been a significant change to any of the factors listed in paragraph 24(2)(a) in relation to climate change.
- (4) Before determining a day under subsection (3), the Minister must obtain and consider the recommendations of the Commission on the proposed target day.

23 Reviews of the Target

- (1) The Commission must review the Target and advise the Minister of the outcome of the review and any recommendations:
 - (a) if setting an emissions budget under section 26; and
 - (b) following a request from the Minister.
- (2) The Commission must advise the Minister in writing of the outcome of the review, including any recommendations made in accordance with section 24, 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 27; or
 - (b) for a review required under paragraph (1)(b)—as soon as practicable following completion of the review.

24 Recommendations to amend the Target

- (1) As a result of a review under section 23, the Commission may recommend a change to any of the following:
 - (a) the time frame for achievement of the Target;
 - (b) the levels of reductions of sources of emissions and increases in sinks required by the Target;
 - (c) how the Target may be met.
- (2) However, the Commission must not recommend a change to the Target unless:
 - (a) significant change has occurred, or is likely to occur, since the commencement of this Act to one or more of the following in relation to climate change:
 - (i) global action;
 - (ii) best available academic peer reviewed research or public reports;
 - (iii) Australia's economic or fiscal circumstances;
 - (iv) Australia's obligations under relevant international agreements;
 - (v) technological developments;
 - (vi) distributional impacts;
 - (vii) equity implications (including intergenerational equity);
 - (viii) the principal risks and uncertainties associated with reductions of emissions and removals of greenhouse gases;
 - (ix) social, cultural, environmental and ecological circumstances; and
 - (b) the Commission is satisfied that the significant change justifies the change to the Target.
- (3) The Commission must, as soon as practicable after making a recommendation under subsection (1), publish the recommendation on the Commission's website.
- (4) The Minister must, as soon as practicable after receiving a recommendation under subsection (1), prepare a statement in response. The Minister must cause the statement to be:

- (a) tabled in each House of the Parliament within 15 sitting days of that house after the statement is completed; and
- (b) published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.

25 Fossil fuel export emissions

- (1) The Commission must report to the Minister on the effect of Australia's fossil fuel export emissions in meeting the objects of this Act before each of the following:
 - (a) the one year anniversary of the commencement of this Act;
 - (b) the end of each two year period after that anniversary.
- (2) The Minister may, by legislative instrument, determine:
 - (a) the meaning of *fossil fuel export emissions*; and
 - (b) the method for accounting for fossil fuel export emissions.
- (3) However, the Minister must not make a determination under subsection (2) unless:
 - (a) the Minister has referred the proposed determination to the Commission; and
 - (b) the Commission has provided advice on the proposal.
- (4) The Commission must publish a report prepared under subsection (1), or advice provided under paragraph (3)(b), on the Commission's website as soon as practicable after the report or advice is completed.

Part 5—Setting emissions budgets etc.

Division 1—Emissions budgets

26 Minister to set emissions budgets

- (1) The Minister must, by legislative instrument, set an emissions budget for each emissions budget period.
- (2) An *emissions budget* means an amount of emissions for an emissions budget period expressed as a net amount of carbon dioxide equivalent.
- (3) There must be 2 consecutive emissions budgets in place at any one time.
- (4) An emissions budget must be set:
 - (a) for the emissions budget period beginning 1 January 2022 and 1 January 2026—by 31 December 2021; and
 - (b) for the emissions budget period beginning 1 January 2031—by 31 December 2025; and
 - (c) for the emissions budget period beginning 1 January 2036—by 31 December 2030; and
 - (d) for the emissions budget period beginning 1 January 2041—by 31 December 2035; and
 - (e) for the emissions budget period beginning 1 January 2046—by 31 December 2040; and
 - (f) for any later emissions budget period—not less than 10 years before that emissions budget period commences.
- (5) The Minister must ensure that the net accounting emissions for an emissions budget period do not exceed the emissions budget for the period.
- (6) Before setting an emissions budget under subsection (1), the Minister must obtain and consider the advice of the Commission on the proposed budget.

- (7) The Commission's advice must be published on the Commission's website as soon as practicable after the advice is given to the Minister.
- (8) The Minister must as soon as practicable after receiving the advice, prepare a statement in response. The Minister must cause the statement to be:
 - (a) tabled in each House of the Parliament within 15 sitting days of that house after the statement is completed; and
 - (b) published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.
- (9) In setting an emissions budget under subsection (1), the Minister must not take into account any emissions units or credits held or earned during previous emissions budget periods or under international agreements (including the Kyoto Protocol).

27 Commission to advise Minister

- (1) The Commission must advise the Minister on the following matters relevant to setting an emissions budget:
 - (a) the amount of emissions that will be permitted in each emissions budget period;
 - (b) how to measure progress towards meeting emissions budgets and the Target;
 - (c) the means by which emissions budgets and the Target may be met (including pricing and policy methods);
 - (d) the proportion of an emissions budget to be met through reductions of emissions, and removal of greenhouse gases, in Australia;
 - (e) the amount by which emissions of each greenhouse gas should be reduced to meet emissions budgets and the Target.
- (2) In providing advice under subsection (1), the Commission must have regard to the guiding principles set out in Division 2 of Part 1 and the matters set out in section 28.
- (3) Before providing advice to the Minister under subsection (1), the Commission must:

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- (a) make the proposed advice publicly available and invite submissions on the advice; and
 - (b) allow adequate time and opportunity for any submissions to be received, heard and considered by the Commission.
- (4) The Commission must provide advice under subsection (1):
- (a) for the emissions budgets for the first 2 emissions budget periods—by 1 February 2021; and
 - (b) for any other emissions budget—no later than 12 months before the emissions budget must be set under section 26.

28 Matters relevant to emissions budgets

- (1) This section applies to:
- (a) the Commission when the Commission is preparing advice for the Minister under section 27; and
 - (b) to the Minister, when the Minister is setting an emissions budget under section 26.
- (2) The Commission and the Minister must:
- (a) have regard to how the emissions budget and the Target may be met, including considering the following:
 - (i) the key opportunities for reductions of emissions, and removal of greenhouse gases, in Australia;
 - (ii) the principal risks and uncertainties associated with those reductions and removals; and
 - (b) have regard to the following matters:
 - (i) the emissions and removal of greenhouse gases projected for the emissions budget period;
 - (ii) a broad range of domestic and international scientific advice;
 - (iii) existing technology and anticipated technological developments, including the costs and benefits of early adoption of these in Australia;
 - (iv) the need for emissions budgets that are ambitious but technically and economically achievable;
 - (v) maintaining energy security, reliability and affordability;

- (vi) the results of public consultation on a proposed emissions budget;
- (vii) the likely impact of actions taken to achieve an emissions budget and the Target, including on the ability to adapt to climate change;
- (viii) the distribution of those impacts across the States and Territories, and from generation to generation;
- (ix) the impact on rural, regional and remote Australia;
- (x) the likely impact on employment and workers;
- (xi) economic circumstances and the likely impact on taxation, public spending, and public borrowing;
- (xii) the implications, or potential implications, of land-use change for communities;
- (xiii) responses to climate change taken or planned by parties to the Paris Agreement or the Climate Change Convention;
- (xiv) Australia's relevant obligations under international agreements.

29 Commission to report at end of emissions budget period

- (1) Not later than one year after the end of an emissions budget period, the Commission must prepare a report for the Minister evaluating the progress made in that emissions budget period towards meeting the emissions budget in the next emissions budget period, including an evaluation of how well the emissions reduction plan has contributed to that progress.
- (2) The Minister must as soon as practicable after receiving the report, prepare a statement in response. The Minister must cause the statement to be:
 - (a) tabled in each House of the Parliament within 15 sitting days of that house after the statement is completed; and
 - (b) published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.

Division 2—Emissions reduction plans

30 Requirement for emissions reduction plan

- (1) The Minister must prepare an emissions reduction plan setting out the policies and strategies for meeting each emissions budget.
- (2) The plan must be in writing and prepared:
 - (a) after the emissions budget has been set under section 26; and
 - (b) before the commencement of the emissions budget period to which the emissions budget relates.
- (3) The plan must include:
 - (a) sector-specific policies to reduce emissions and increase removals of greenhouse gases; and
 - (b) a multi-sector strategy to meet emissions budgets and improve the ability of those sectors to adapt to the effects of climate change; and
 - (c) a strategy to mitigate the impacts that reducing emissions and increasing removals of greenhouse gases will have on employees and employers, rural and regional Australia, Indigenous Australians and wider communities, including the funding for any mitigation action; and
 - (d) policies, strategies and proposals for the deployment and development of low emissions technologies; and
 - (e) any other policies or strategies that the Minister considers necessary.
- (4) Before preparing an emissions reduction plan under subsection (1), the Minister must obtain and consider the advice of the following:
 - (a) State and Territory ministers with responsibility for climate change or emissions reduction;
 - (b) the Commission.
- (5) The Minister must cause an emissions reduction plan to be:
 - (a) tabled in each House of the Parliament within 15 sitting days of that House after the emissions reduction plan is completed; and

- (b) published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.

31 Commission to advise on emissions reduction plans

- (1) Not later than 24 months before the beginning of an emissions budget period, the Commission must provide to the Minister advice on the direction of the policy required in the emissions reduction plan for that emissions budget period.
- (2) Despite subsection (1), the advice for the emissions budget plan for the emissions budget period beginning 1 January 2022 must be given no later than 1 February 2021.
- (3) In preparing advice under subsection (1), the Commission must apply subsection 28(2) as if that subsection included a reference to preparing an emissions reduction plan.

Part 6—Climate Change Commission

Division 1—Establishment, functions and powers

32 Climate Change Commission

- (1) The Climate Change Commission is established by this section.
- (2) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
 - (a) the Commission is a listed entity; and
 - (b) the CEO is the accountable authority of the Commission; and
 - (c) the following persons are officials of the Commission:
 - (i) the CEO;
 - (ii) a member of the Commission;
 - (iii) the staff of the Commission;
 - (iv) persons whose services are made available to the Commission under section 68;
 - (v) consultants engaged under section 69; and
 - (d) the purposes of the Commission include the functions of the Commission referred to in section 33.

33 Functions of the Commission

The Commission has the following functions:

- (a) to advise the Minister to enable the preparation of emissions budgets;
- (b) to advise on any necessary amendments to emissions budgets;
- (c) to advise the Minister to enable the preparation of emissions reduction plans;
- (d) to monitor and report on progress towards meeting emissions budgets and the Target;
- (e) to prepare national climate change risk assessments and low emissions technology statements;
- (f) to prepare reports on the implementation of national adaptation plans;

- (g) to conduct reviews under:
- (i) section 306 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and
 - (ii) sections 76A and 76B of the *National Greenhouse and Energy Reporting Act 2007*; and
 - (iii) this Act.

34 Powers

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

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

35 Commission not subject to direction

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

Division 2—Membership of the Commission etc

36 Commission members

The Commission consists of the following members:

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

37 Appointment of members of the Commission

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

Note: A member of the Commission may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) In appointing a member, the Minister must ensure that the Commission (taken as a whole) has experience in, or knowledge of, the following:
- (a) business competitiveness;
 - (b) climate change policy;
 - (c) climate science;
 - (d) economic analysis and forecasting;
 - (e) energy production and supply;
 - (f) financial investment;
 - (g) regional development;
 - (h) industrial relations;
 - (i) agriculture;
 - (j) technology development and diffusion.
- (3) The Chief Scientist holds office on a part-time basis.
- (4) The other members of the Commission may hold office either on a full-time or part-time basis.
- (5) The Minister must ensure that, at any time:
- (a) a minimum of two members of the Commission must hold expertise in climate science and climate policy

38 Approval of proposed appointment by Parliamentary Joint Committee on Climate Adaptation and Mitigation

- (1) The Minister must not appoint a person under subsection 37(1) unless:
 - (a) the Minister has referred the proposed appointment to the Parliamentary Joint Committee on Climate Adaptation and Mitigation; and
 - (b) the Committee has approved the proposal.

Note: Section 48 provides for the establishment and membership of the Committee.
- (2) A referral under paragraph (1)(a) must be in writing and may be withdrawn by the Minister at any time.
- (3) If the Minister refers a proposed appointment to the Committee for approval under paragraph (1)(a), the Committee must:
 - (a) approve or reject the proposal within 14 days after receiving it; or
 - (b) notify the Minister under subsection (5).
- (4) The Committee may request the Minister to provide further information in relation to the proposal.
- (5) The Committee may notify the Minister within 14 days after receiving a proposal that it needs more time to consider the proposal. If the Committee does so, the Committee must approve or reject the proposal within 44 days after receiving it.
- (6) The decision to approve or reject a proposal is to be by a majority of the members of the Committee for the time being holding office.
- (7) If the Committee does not make a decision on a proposal by the required time, the Committee is taken, at that time, to have approved the proposal.
- (8) The Committee must notify the Minister, in writing, of its decision on a proposal as soon as practicable after making the decision.
- (9) The Committee must report to both Houses of the Parliament on its decision on a proposal.

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39 Period of appointment for members of the Commission

A member of the Commission (other than the Chief Scientist) holds office for the period specified in the instrument of appointment. The period must not exceed 10 years.

40 Acting members of the Commission

Acting Chair of the Commission

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

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

Acting member of the Commission (other than the Chair of the Commission or the Chief Scientist)

- (2) The Minister may, by written instrument, appoint a person to act as a member of the Commission (other than the Chair of the Commission or the Chief Scientist):
- (a) during a vacancy in the office of a member of the Commission (other than the Chair of the Commission or the Chief Scientist), whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when a member of the Commission (other than the Chair of the Commission or the Chief Scientist):
 - (i) is absent from duty or Australia; or

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

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

Division 3—Terms and conditions for members of the Commission

41 Remuneration

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

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

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

42 Disclosure of interests

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

43 Paid work

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

44 Leave of absence

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

45 Resignation

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

46 Termination of appointment

- (1) The Minister may terminate the appointment of a member of the Commission:
 - (a) for misbehaviour; or
 - (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.

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- (2) The Minister may terminate the appointment of a member of the Commission if:
- (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with the member's creditors; or
 - (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
 - (b) if the member is appointed on a full-time basis—the member is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) if the member is appointed on a full-time basis—the member engages, except with the Minister's approval, in paid work outside the duties of the member's office (see subsection 43(1)); or
 - (d) if the member is appointed on a part-time basis—the member engages in paid work that conflicts or may conflict with the proper performance of the member's duties (see subsection 43(2)); or
 - (e) in any case—the member fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

47 Other terms and conditions

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

Division 4—Parliamentary Joint Committee on Climate Adaptation and Mitigation

48 Parliamentary Joint Committee on Climate Adaptation and Mitigation

- (1) As soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Climate Adaptation and Mitigation, is to be appointed according to the practice of the Parliament.
- (2) The Committee is to consist of 11 members:
 - (a) 5 members of the Senate appointed by the Senate; and
 - (b) 6 members of the House of Representatives appointed by that House.
- (3) A member of the Committee ceases to hold office:
 - (a) when the House of Representatives expires by effluxion of time or is dissolved; or
 - (b) if the member ceases to be a member of the House of the Parliament by which the member was appointed; or
 - (c) if the member resigns the member's office as provided by subsection (4) or (5).
- (4) A member appointed by the Senate may resign the member's office by writing signed by the member and delivered to the President of the Senate.
- (5) A member appointed by the House of Representatives may resign the member's office by writing signed by the member and delivered to the Speaker of that House.
- (6) Either House of the Parliament may appoint one of its members to fill a vacancy amongst the members of the Committee appointed by that House.

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49 Powers and proceedings of the Committee

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

50 Functions of the Committee

The functions of the Committee are:

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

Division 5—Decision making of the Commission

51 Convening meetings

- (1) The Commission must hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chair of the Commission may convene a meeting at any time.

52 Presiding at meetings

- (1) The Chair of the Commission presides at all meetings at which the Chair is present.
- (2) If the Chair of the Commission is not present at a meeting, the Commission members present must appoint one of themselves to preside.

53 Quorum

- (1) At a meeting of the Commission, a quorum is constituted by 5 Commission members.
- (2) However, if:
 - (a) a member of the Commission is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Commission with respect to a particular matter; and
 - (b) when the member of the Commission leaves the meeting concerned there is no longer a quorum present;the remaining members of the Commission at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

54 Voting at meetings

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

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

55 Conduct of meetings

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

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

56 Minutes

The Commission must keep minutes of its meetings.

Division 6—Chief Executive Officer of the Commission

57 Establishment

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

58 Role

- (1) The CEO is responsible for the day-to-day administration of the Commission.
- (2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of the CEO's duties.
- (3) The CEO is to act in accordance with the policies determined, and any directions given, by the Commission.
- (4) However, the CEO is not subject to direction by the Commission in relation to the CEO's performance of functions, or exercise of powers, under:
 - (a) the *Public Governance, Performance and Accountability Act 2013*; or
 - (b) the *Public Service Act 1999*.

59 Appointment

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

Note: The CEO may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.
- (2) Before appointing a person as the CEO, the Minister must consult the Commission.
- (3) The CEO holds office on a full-time basis.
- (4) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

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

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60 Acting appointments

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

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

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

61 Paid work

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

62 Remuneration

- (1) The CEO is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid the remuneration that is prescribed by the rules.
- (2) The CEO is to be paid the allowances that are prescribed by the rules.
- (3) Subsections 7(9) and (13) of the *Remuneration Tribunal Act 1973* do not apply in relation to the office of the CEO.

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

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

63 Leave

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

64 Resignation

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

65 Termination of appointment

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

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- (d) the CEO engages, except with the approval of the Minister, in paid work outside the duties of the CEO's office (see section 61).
- (3) Before terminating the appointment of the CEO, the Minister must consult the Commission.

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

66 Other terms and conditions

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

Division 7—Staff of the Commission**67 Staff**

- (1) The staff of the Commission are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the CEO and the staff of the Commission together constitute a Statutory Agency; and
 - (b) the CEO is the Head of that Statutory Agency.

68 Persons assisting the Commission

The Commission may also be assisted:

- (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*); or
- (b) by officers and employees of authorities of the Commonwealth; or
- (c) by officers and employees of a State or Territory; or
- (d) by officers and employees of authorities of a State or Territory;

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

69 Consultants

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

Part 7—Miscellaneous

70 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.

71 Response to annual report

The Minister must, within 3 months after receiving the Commission's annual report, prepare a statement that includes the following:

- (a) the Minister's response to the Commission's report and any recommendations;
- (b) a description of the progress made in implementing the emissions reduction plan to which the annual report relates;

- (c) any amendments to that emissions reduction plan.

72 Tabling and publication of response

- (1) The Minister must cause a statement prepared in accordance with section 71 to be tabled in each House of the Parliament within 15 sitting days of that House after the statement is completed.
- (2) A statement prepared in accordance with section 71 must be published on the Commission's website as soon as practicable after it is first tabled in a House of the Parliament.

73 Minister or Commission may request information

- (1) The Minister or the Commission may, in writing, request that a constitutional corporation provide all or any of the following information:
 - (a) a description of the corporation's governance in relation to the risks of, and opportunities arising from, climate change;
 - (b) a description of the actual and potential effects of the risks and opportunities on the corporation's business, strategy, and financial planning;
 - (c) a description of the processes that the corporation uses to identify, assess, and manage the risks;
 - (d) a description of the metrics and targets used to assess and manage the risks and opportunities, including, if relevant, time frames and progress;
 - (e) any other matters prescribed by the rules.
- (2) A constitutional corporation commits an offence if the corporation fails to comply with a request made under subsection (1).

Penalty: 50 penalty units.
- (3) The Minister must, as soon as practicable, provide the Commission with a copy of any information received in response to a request made by the Minister under subsection (1).

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- (4) The Commission must, as soon as practicable, provide the Minister with a copy of any information received in response to a request made by the Commission.
- (5) The Minister and the Commission must not publicly disclose any information received in response to a request, unless disclosure of the information is necessary to enable the Minister or the Commission to perform a function or duty under this Act.
- (6) Subsection (5) does not apply in respect of information that is already in the public domain.
- (7) Before publicly disclosing any information received in response to a request, the Minister or Commission must consult with the person to whom the information relates.

74 Rules

- (1) The Minister may, by legislative instrument, make rules (*rules*) prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) To avoid doubt, the general rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.