

**2009**

**EXPOSURE DRAFT**

**AUSTRALIAN CLIMATE CHANGE  
REGULATORY AUTHORITY BILL 2009**

**COMMENTARY**

(Circulated by the authority of the Minister for Climate Change and  
Water, Senator the Hon Penny Wong)

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## **Note**

The Commentary has been prepared for the purpose of assisting readers to understand the exposure draft of the Australian Climate Change Regulatory Authority Bill 2009. When the bills are introduced into Parliament, an explanatory memorandum will be tabled which may differ from this Commentary.

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# **Glossary**

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The following abbreviations and acronyms are used throughout this explanatory memorandum.

<b>Abbreviation</b>	<b>Definition</b>
Authority	Australian Climate Change Regulatory Authority
Climate change law	The laws listed in table 1.1
Scheme	Carbon Pollution Reduction Scheme
White Paper	Commonwealth Government, <i>Carbon Pollution Reduction Scheme: Australia's Low Pollution Future</i> (December 2008)



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# **General outline and financial impact**

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## **Australian Climate Change Regulatory Authority Bill 2009**

The Australian Climate Change Regulatory Authority Bill 2009 seeks to establish the Australian Climate Change Regulatory Authority (Authority), which will be responsible for administering the Carbon Pollution Reduction Scheme (Scheme), the Renewable Energy Target, and the National Greenhouse and Energy Reporting System.

***Date of effect:*** 28 days from Royal Assent to section 3 of the proposed *Carbon Pollution Reduction Scheme Act 2009* (assuming the conditions in section 2 of that Act are satisfied).

***Proposal announced:*** The measures are based on the positions included in the White Paper entitled *Carbon Pollution Reduction Scheme: Australia's Low Pollution Future*, released by the Government on 15 December 2008.

***Financial, compliance and regulation impact:*** These statements will be available at the time of introduction.





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# **Chapter 1**

## **Australian Climate Change Regulatory Authority Bill 2009**

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### **Outline of chapter**

1.1 The commentary describes the Authority's functions and powers, membership, planning and reporting obligations and the secrecy provisions.

### **Context of amendments**

#### *One of a Package of Bills*

1.2 The Australian Climate Change Regulatory Authority Bill 2009 is part of the package of draft bills that seek to establish the Scheme.

1.3 Other key draft bills in that package are the:

- Carbon Pollution Reduction Scheme Bill 2009
- Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009
- Carbon Pollution Reduction Scheme (Charges – Excise) Bill 2009
- Carbon Pollution Reduction Scheme (Charges – Customs) Bill 2009
- Carbon Pollution Reduction Scheme (Charges – General) Bill 2009.

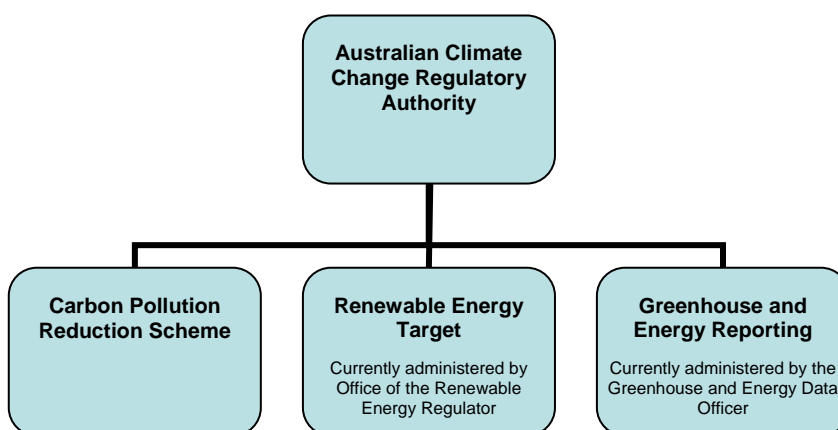
1.4 The draft bill needs to be read in the context, in particular, of the first two bills mentioned above:

- the draft Carbon Pollution Reduction Scheme Bill 2009 contains the detail concerning the Authority's functions and powers relating to the Scheme
- the draft Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 amends the *National Greenhouse and Energy Reporting Act 2007* and the *Renewable Energy (Electricity) Act 2000* to establish a single climate change regulatory authority.

***Two regulators abolished, one created***

1.5 As well as administering the Scheme, the Authority will also be responsible for the functions of the Office of the Renewable Energy Regulator and the Greenhouse and Energy Data Officer, as illustrated in Diagram 1.1 below.

**Diagram 1.1: Proposed Regulatory Functions**



1.6 The advantages of this arrangement are expected to be:

- Improved regulatory outcomes, including reduced risk of conflicts or gaps emerging between regulators with separate functions
- Streamlining of procedures for reporting and surrender
- Reduced burden for businesses that would otherwise need to deal with two or three regulators

- Economies of scale in the administration of legislation
- Consistency with current Australian Government policy on the governance arrangements for Australian Government bodies.

### ***Authority to be independent from Government***

1.7 The Government's intent is to establish an independent regulator to administer the Scheme within a limited and legislatively prescribed discretion. Such an arrangement is expected to reduce the risk that the regulator's decisions are based on factors other than the Scheme's objectives, and should also contribute to efficient and effective administration.

1.8 This intent to establish an independent regulator is reflected in a number of elements in the draft bill, including the limited scope for Ministerial directions to the Authority and the limited grounds on which a member of the Authority may be removed from office.

1.9 A new authority is proposed because no single existing regulator has the capabilities needed to administer the range of functions required under climate change laws.

## **Summary of new law**

1.10 The draft bill establishes the Authority, a body corporate comprising a Chair and between 2 and 4 other members.

1.11 The primary functions of the Authority are to administer the Carbon Pollution Reduction Scheme, the Renewable Energy Target, and the National Greenhouse and Energy Reporting System.

1.12 For the purposes of the *Public Service Act 1999*, the Chair of the Authority is the head of a statutory agency and can employ Australian Public Sector employees on behalf of the Commonwealth.

1.13 In order to ensure proper use and management of public money, public property and other Commonwealth resources, the Authority will be bound by the *Financial Management and Accountability Act 1997*.

1.14 The Authority will be required to produce a corporate plan setting out the Authority's objectives and the strategies and policies that are to be used to achieve those objectives.

1.15 The Authority will also be required to produce an annual report, which will be tabled in Parliament.

1.16 As with many other regulators, such as the Australian Securities and Investment Commission, the Authority is subject to Ministerial direction on general matters only.

1.17 The Minister may only terminate an appointment to the Authority on narrow grounds, including for misbehaviour, physical or mental incapacity or repeated absence from meetings of the Authority.

1.18 The draft bill contains provisions designed to ensure that information obtained by the Authority in the course of its functions is only disclosed and used for legitimate purposes.

## **Comparison of key features of new law and current law**

<i>New law</i>	<i>Current law</i>
One Authority established to administer the Carbon Pollution Reduction Scheme, the Renewable Energy Target and The National Greenhouse and Energy Reporting System	Renewable Energy Target administered by the Office of the Renewable Energy Regulator
	National Greenhouse and Energy Reporting System administered by the Greenhouse and Energy Data Officer
	No Carbon Pollution Reduction Scheme

## **Detailed explanation of new law**

### **Establishment of Authority**

1.19 The draft bill establishes the Authority [*Part 2, Division 1, clause 10*].

### **Nature of the Authority**

1.20 The Authority is a body corporate, comprising a Chair and between 2 and 4 other members. [*Part 2, Division 2, clauses 16-17*]

1.21 As with many other regulators, such as the Australian Securities and Investment Commission, the Authority is subject to Ministerial direction on general matters only [*Part 2, Division 8, clause 41*]. The policy intent of this provision is to ensure that the Authority is accountable to the Minister and acts consistently with Commonwealth Government policy,

whilst not empowering the Minister to intervene in particular cases, for example the issue of Australian emissions units to a particular person.

1.22 Following the establishment of the Authority, the Minister would have the power to write to the Chair setting out her expectations concerning the Authority. The letter could, for example, provide general guidance on relevant government policies and identify the broad priorities the Minister expects the Authority to pursue.

1.23 While the Authority is to be independent from specific direction by Government, its nature as a government authority is recognised through a number of provisions. In particular:

- contracts entered into by the Authority are entered into on behalf of the Commonwealth [*Part 2, Division 1, clause 12(3)*]
- any real or personal property held by the Authority is held for and on behalf of the Commonwealth [*Part 2, Division 1, clause 12(4)*]
- any money received by the Authority is received for and on behalf of the Commonwealth [*Part 2, Division 1, clause 12(5)*]
- any financial liabilities of the Authority are taken to be liabilities of the Commonwealth [*Part 2, Division 1, clause 14*]
- the Authority has the privileges and immunities of the Crown in right of the Commonwealth [*Part 2, Division 1, clause 15*]
- the Authority will be subject to the *Financial Management and Accountability Act 1997*, which provides for the proper use and management of public money, public property and other Commonwealth resources. (This will be achieved through the Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 rather than through this draft bill).

### **Functions of Authority**

1.24 The Authority has the following functions:

- such functions as are conferred on the authority by a climate change law
- such functions as are conferred on the Authority by any other law of the Commonwealth

- to do anything incidental to or conducive to the performance of any of the above functions.

*[Part 2, Division 1, clause 11]*

1.25 The following table lists ‘climate change laws’ as defined in the draft bill, and summarises the relevant functions conferred by those laws on the Authority.

**Table 1.1: Summary of functions conferred on the Authority by climate change laws**

<i>Climate change law</i>	<i>Summary of Authority’s functions</i>
This Act	<ul style="list-style-type: none"> <li>• The functions set out in paragraph 1.25 above.</li> <li>• The planning and reporting functions set out from paragraph 1.52 below.</li> </ul>
Carbon Pollution Reduction Scheme Act	<ul style="list-style-type: none"> <li>• To take various actions and decisions needed for the smooth functioning of the Scheme, including: <ul style="list-style-type: none"> <li>– Maintaining a National Registry to track emissions units</li> <li>– Auctioning emissions units</li> <li>– Allocating emissions units in relation to emissions-intensive trade-exposed activities and coal-fired electricity generation</li> <li>– Assessing shortfalls in emissions units surrendered by liable entities</li> <li>– Overseeing the transfer of liability for emissions between corporate entities in some circumstances</li> <li>– Assessing the eligibility of reforestation projects and unit entitlements associated with those projects</li> </ul> </li> <li>• To monitor and promote compliance with the Scheme</li> <li>• To conduct and/or co-ordinate education</li> </ul>

<i>Climate change law</i>	<i>Summary of Authority's functions</i>
	<p>programs about the Scheme</p> <ul style="list-style-type: none"> <li>• To advise the Minister on matters relating to the Scheme</li> <li>• To advise and assist persons in relation to their obligations under the Scheme</li> <li>• To liaise with regulatory and other bodies, whether in Australia or elsewhere</li> <li>• To collect, analyse, interpret and disseminate statistical information relating to the Scheme.</li> </ul>
Regulations under the Carbon Pollution Reduction Scheme Act	<ul style="list-style-type: none"> <li>• None at this stage.</li> </ul>
A determination under subsection 103(1) or (2) of the <i>Carbon Pollution Reduction Scheme Act 2009</i>	<ul style="list-style-type: none"> <li>• From 1 January 2012, the Authority may, by legislative instrument, determine the policies, procedures and rules that apply in relation to the auctioning of Australian emissions units by the Authority.</li> </ul>
<i>National Greenhouse and Energy Reporting Act 2007</i>  (as amended by the draft Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009)	<ul style="list-style-type: none"> <li>• Enforcing the reporting of greenhouse gas emissions, energy consumption and production by registered corporations and entities liable under the Scheme.</li> <li>• Public disclosure of corporate-level greenhouse gas emissions and energy information.</li> </ul>
Regulations under the <i>National Greenhouse and Energy Reporting Act 2007</i>	<ul style="list-style-type: none"> <li>• These regulations provide details on matters relevant to the Authority's obligations, including record-keeping requirements.</li> </ul>
<i>Renewable Energy (Electricity) Act 2000</i>	<ul style="list-style-type: none"> <li>• Administration of the Mandatory Renewable Energy Target, including: <ul style="list-style-type: none"> <li>– Accrediting eligible renewable energy power stations</li> <li>– Maintaining registers, including the register of Renewable Energy Certificates</li> <li>– Monitoring and enforcing compliance with the Act.</li> </ul> </li> </ul>
Regulations under the <i>Renewable Energy (Electricity) Act 2000</i>	<ul style="list-style-type: none"> <li>• These Regulations contain detail around some matters contained in the <i>Renewable Energy (Electricity) Act 2000</i>.</li> </ul>
<i>Renewable Energy (Electricity) (Charges) Act</i>	<ul style="list-style-type: none"> <li>• This Act creates the charge to be paid per unit of electricity where there is a failure to comply with the <i>Renewable Energy</i></li> </ul>

<i>Climate change law</i>	<i>Summary of Authority's functions</i>
2000	(Electricity) Act 2000. The Authority will be responsible for recovering this charge as part of its function of enforcing compliance with that Act.

## **Powers of Authority**

1.26 The draft bill provides the Authority with the general power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions. [Part 2, Division 1, clause 12(1)]

1.27 The draft bill also provides that the Authority may enter into contracts [Part 2, clause 12(2)]. This would allow the Authority to, for example, engage consultants or enter into contracts for premises and equipment.

1.28 These powers are in addition to the specific powers given to the Authority under the legislation set out in Table 1.1. For example, under the Carbon Pollution Reduction Scheme Bill 2009 the Authority would have a range of enforcement powers, including the power to bring proceedings for civil penalty orders.

## **Exercise of functions and powers**

1.29 In performing its functions and exercising its powers, the Regulator must strive to act effectively and with a minimum of procedural requirements. [Part 2, Division 1, clause 13]

1.30 The Authority may, by writing, delegate functions and powers to

- a member of the Authority

or

- a staff member of the Authority who is a Senior Executive Service or Acting Senior Executive Service employee (that is, one of the senior management group of the Australian Public Sector). [Part 2, Division 5, clause 35]

## **Membership of the Authority**

### *Number of Members*

1.31 As noted above, the Authority will comprise a Chair and between two and four other members. [Part 2, Division 2, clause 17]



### ***Term of Membership***

1.32 The Chair must hold office on a full-time basis, and other members may hold office on either a full-time or part-time basis. *[Part 2, Division 2, clauses 18(3)-(4)]*

1.33 All members are to be appointed for a period of up to five years. *[Part 2, Division 2, clause 19]*

### ***Expertise of Members***

1.34 The Minister is responsible for appointing members of the Authority *[Part 2, Division 2, clause 18(1)]*. Before appointing a member, the Minister must be satisfied that the member has substantial experience or knowledge and significant standing in at least one of the following fields:

- economics
- industry
- energy production and supply
- energy production and reporting
- greenhouse gas emissions measurement and reporting
- greenhouse gas abatement measures
- financial markets
- trading of environmental instruments.

*[Part 2, Division 2, clause 18(2)]*

1.35 This list is similar to that for expert advisory committees established under the draft Carbon Pollution Reduction Scheme Bill 2009. In contrast to expert advisory committees, however, ‘climate science’ is not listed as a relevant field of knowledge for the Authority. This is because the Authority’s focus is on administration and enforcement of the Scheme, rather than advising on emission reductions trajectories.

### ***Acting Members***

1.36 The draft bill anticipates that a member of the Authority may be unable to perform the duties of the office from time to time, such as when absent from Australia. The Minister can appoint an Acting Chair or Acting Member (as appropriate) in such circumstances. *[Part 2, Division 2, clause 20]*

## **Terms and conditions for members of the Authority**

### ***Remuneration and entitlements of Authority members***

1.37 Members of the Authority are to be paid at a rate determined by the Remuneration Tribunal, the independent tribunal established under the *Remuneration Tribunal Act 1973* to handle the remuneration of key Commonwealth offices. Where no determination has been made by the Tribunal, members are paid at the rate prescribed in regulations. *[Part 2, Division 3, clause 21]*

1.38 A full-time member of the Authority has the recreation leave entitlements determined by the Remuneration Tribunal, and may be granted additional leave (other than recreation leave) by the Minister. *[Part 2, Division 3, clause 25]*

1.39 The Chair of the Authority may grant leave of absence to a part-time member on terms and conditions decided by the Chair. (It is not possible for recreation leave for part-time members to be set by the Remuneration Tribunal, as the *Remuneration Tribunal Act* only authorises determinations for full-time members of bodies like the Authority: *Remuneration Tribunal Act 1973*, section 7(3AA)).

### ***Resignation and Termination***

1.40 An Authority member may resign by giving the Minister a written resignation. *[Part 2, Division 3, clause 26]*

1.41 The Minister may only terminate an appointment on narrow grounds, including for misbehaviour, physical or mental incapacity or repeated absence from meetings of the Authority. *[Part 2, Division 3, clause 27]*

1.42 In the event that any terms and conditions of employment need to be specified and are not already dealt with in the draft bill, the Minister may make a determination on those matters. *[Part 2, Division 3, clause 28]*

## **Decision-making by the Authority**

1.43 The draft bill is not prescriptive as to how the Authority should make decisions. Subject to some minimum requirements, the Authority can regulate proceedings at its meetings as it sees appropriate. *[Part 2, Division 4, clause 33]*

1.44 These minimum requirements are:

- the Authority should hold such meetings as are necessary for the performance of its functions *[Part 2, Division 4, clause 29]*

- the Chair presides at all meetings at which he or she is present [*Part 2, Division 4, clause 30(1)*]
- if the Chair is not present, the other members present must appoint one of themselves to preside [*Part 2, Division 4, clause 30(2)*]
- two members constitute a quorum [*Part 2, Division 4, clause 31*]
- questions are resolved by a majority of votes [*Part 2, Division 4, clause 32*]
- if votes are evenly split, the presiding member has a casting vote [*Part 2, Division 4, clause 32*]
- the Authority must keep minutes of its meetings. [*Part 2, Division 4, clause 34*]

### **Conflicts of interest**

1.45 The draft bill contains a number of provisions aimed at ensuring that Authority members do not have interests that conflict with the proper performance of their duties. In particular, the draft bill establishes:

- a general requirement that members must give written notice to the Minister of all interests that conflict, or could conflict, with the proper performance of their functions [*Part 2, Division 3, clause 22*]
- a specific requirement that members disclose to a meeting of the Authority a conflict of interest in any matter before the Authority, and absent themselves from any deliberation or decision with respect to that matter unless the Authority otherwise determines [*Part 2, Division 3, clause 23*]
- a prohibition on a full-time member of the Authority from engaging in any other paid employment without the Minister's approval [*Part 2, Division 3, clause 24*]
- a prohibition on any part-time member from engaging in any paid employment that conflicts, or may conflict, with the proper performance of his or her duties. [*Part 2, Division 3, clause 24*]

1.46 A failure to comply with above requirements may provide grounds for the termination of a member's appointment. [*Part 2, Division 3, clause 27*]

## **Resourcing**

### *Staff*

1.47 For the purposes of the *Public Service Act 1999*, the Chair of the Authority is the head of a Statutory Agency and can employ Australian Public Sector employees on behalf of the Commonwealth. *[Part 2, Division 7, clause 36]*

1.48 In order to ensure clear lines of accountability between the Chair and staff, the Chair is not subject to direction by the Authority in relation to his or her actions taken under the *Public Service Act 1999*. *[Part 2, Division 9, clause 42]*

### *Consultants*

1.49 The Authority also has the power to engage persons with suitable qualifications and experience as consultants. *[Part 2, Division 6, clause 38]*

### *Other public sector employees*

1.50 The Authority may also be assisted by public sector officers and employees (Commonwealth, State or Territory), where their services are made available. *[Part 2, Division 6, clause 37]*

## **Planning obligations**

1.51 The Authority must prepare a corporate plan at least once in each 3 year period, which sets out the objectives of the Regulator and the strategies and policies that are to be followed to achieve those objectives. *[Part 2, Division 7, clauses 39(1)-(3)]*

1.52 In addition to these general requirements, the corporate plan must also include details on any other matter that the Minister requires. *[Part 2, Division 7, clause 39(3)(c)]*

1.53 However, there is no requirement for the Minister to amend or approve the corporate plan.

1.54 Once a corporate plan has been prepared, the Chair must keep the Minister informed as to changes to the plan and matters that might significantly affect the achievement of the objectives set out in the plan. *[Part 2, Division 7, clause 39(4)]*

1.55 The Minister may give the Chair guidelines to use in preparing the Corporate Plan, or informing the Minister. *[Part 2, Division 7, clauses 39(5)-(6)]*

1.56 The first corporate plan must be prepared within 12 months after the commencement of proposed section 27 of the draft bill – in effect 13 months from the date Royal Assent is given to the Carbon Pollution Reduction Scheme legislative package. *[Part 2, Division 7, clause 39(7)]*

### **Annual reports**

1.57 The Authority is required to prepare an annual report for each financial year, for presentation by the Minister to Parliament. *[Part 2, Division 7, clause 40(1)]*

1.58 The annual report will set out

- a description of the objectives of the Authority
- an assessment of the extent to which the Authority's operations during the year have achieved those objectives.

*[Part 2, Division 7, clauses 40(2)-(3)]*

1.59 The Authority's annual reports are in addition to reports under section 105 of *Renewable Energy (Electricity) Act 2000*, which are provided on a calendar year basis. *[Part 2, Division 7, clause 40(4)]*

1.60 The Authority's main annual report need only include a summary of the separate renewable energy annual report. *[Part 2, Division 7, clause 40(4)-(5)]*

### **Release of information**

1.61 Information obtained by the Authority may be commercially sensitive. For example, it could disclose the market share of a corporation, or details of its supply arrangements. The draft bill seeks to ensure that information obtained by the Authority is not disclosed unnecessarily or put to unauthorised use.

#### ***Primary disclosure offence***

1.62 The draft bill seeks to make it an offence for a person who is, or has been an 'official of the Authority' to disclose information obtained in an official capacity, unless one of a number of exceptions apply. The penalty for that offence is up to two years' imprisonment or 120 penalty units (which currently equates to \$13,200), or both. *[Part 3, clause 43]*

1.63 For the purposes of the offence, an 'official of the Authority' is defined broadly to include not only Authority members and staff, but also:

- public sector employees (State or Commonwealth) whose services are made available to the Authority in connection with the performance of its functions, and
- consultants engaged by the Authority.

*[Part 1, clause 4]*

***Exceptions to primary disclosure offence***

1.64 In broad terms, the exceptions – that is, the circumstances in which information obtained in an official capacity can be disclosed – are:

- for the purposes of a climate change law *[Part 3, clause 44]*
- to the Minister *[Part 3, clause 45]*
- to the Secretary of the Department (or person authorised by the Secretary), where the disclosure is for the purposes of
  - advising the Ministeror
  - facilitating the monitoring of Australia’s compliance with relevant international obligations *[Part 3, clause 46]*

(“Department” means the responsible Department – in this case, the Department of Climate Change: *Acts Interpretation Act 1901*, section 19A(3)).

- to a Royal Commission *[Part 3, clause 47]*
- to specified agencies, bodies and persons where the Chair of the Authority is satisfied that the information will assist in those agencies in carrying out their functions, including:
  - a range of specified Commonwealth agencies
  - a State or Territory government body
  - a foreign government body
  - an international climate change body *[Part 3, clause 48]*
- to certain operators of financial markets and clearing and settlement facilities, where that body is specified in regulations and where the Chair of the Authority is satisfied

that the information will assist such bodies in carrying out their functions *[Part 3, clause 49]*

- with the consent of the affected person *[Part 3, clause 50]*
- where the material is already publicly available *[Part 3, clause 51]*
- where the summaries of the information, or statistics derived from the information, are released and this release is not likely to enable the identification of a person. *[Part 3, clause 52]*

### *Secondary disclosure offence*

1.65 The draft bill also contains measures to ensure that once protected information has been disclosed for one of the above reasons, further disclosures only take place to the extent necessary.

1.66 The Chair of the Authority may impose conditions on the use of information when it is disclosed:

- To a Royal Commission
- To the agencies, bodies or persons listed in the draft bill
- To the financial bodies identified in regulations

*[Part 3, clauses 47-49]*

1.67 In the case of operators of prescribed financial markets and clearing and settlement facilities, conditions specified by the Chair may apply to the body itself and its officers, employees and agents. It is an offence for any of those persons to breach the conditions. This offence is punishable by a penalty of up to 2 years' imprisonment or 120 penalty units (currently \$13,200), or both. *[Part 3, clause 49(6)]*

1.68 The draft bill also creates a more general offence relating to prescribed operators of financial markets and clearing and settlement facilities. If that body, or an officer, employee or agent of that body, uses or discloses protected information to another person, then they commit an offence unless:

- the disclosure or use is with the consent of the Chair of the Authority

or

- the disclosure or use is for the purpose of monitoring compliance with, enforcing, or performing functions or exercising powers under
  - the *Corporations Act 2001*
  - the business law of a State or Territory
  - the business law of a foreign country

or

- the operating rules (if any) of the body corporate.

*[Part 3, clause 49]*

1.69 The offences applying to operators of financial markets and clearing and settlement facilities are similar to those presently applying to those bodies under section 127 of the *Australian Securities and Investment Commission Act 2001*.

#### ***Delegation by the Chair***

1.70 The Chair may, by writing, delegate to another member of the Authority the Chair's functions or powers relating to disclosure of information, or part of those functions or powers.

*[Part 3, clause 53]*

### **Other matters**

1.71 The draft bill applies to Commonwealth, State and Territory governments. *[Part 1, clause 6]*

1.72 The draft bill extends to all of Australia's external territories, and to matters within Australia's sovereign rights in the exclusive economic zone and continental shelf. *[Part 1, clauses 7-8]*

1.73 The draft bill makes clear that it does not apply in a manner that is inconsistent with the exercise of rights of foreign ships to the territorial sea, exclusive economic zone or waters of the continental shelf in accordance with the United Nations Convention on the Law of the Sea. *[Part 1, clause 9]*

1.74 The draft bill contains a standard regulation-making power. *[Part 4, clause 54]*



1.75 The short title of the draft bill is at clause 1, and a simplified outline of the draft bill is at clause 3. [*Part 1, clause 1, 3*]

1.76 Definitions of words used in the bill are set out in clause 4. [*Part 1, clause 6*]

## **Application and transitional provisions**

1.77 The operative provisions of the draft bill come into effect at the same time as section 3 of the *Carbon Pollution Reduction Scheme Act 2009*, which is 28 days after that Act receives Royal Assent. [*Part 1, clause 2*]

1.78 This is conditional on other bills essential to the operation of the Carbon Pollution Reduction Scheme also receiving Royal Assent: clause 2, Carbon Pollution Reduction Scheme Bill 2009.

## **Consequential amendments**

1.79 Consequential amendments, to absorb the current functions of the Renewable Energy Regulator and Greenhouse and Energy Data Officer into the Authority, also come into effect 28 days from when section 3 of the Carbon Pollution Reduction Scheme Act 2009 receives Royal Assent: Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009, Part 1.

1.80 For example, if the package of bills relating to the Scheme are passed by both Houses, and Royal Assent is given on 1 July 2009, the operative provisions take effect 28 days after Royal Assent, on 29 July 2009. On this date, the Authority would assume functions relating to regulation of the Renewable Energy Target and the National Greenhouse and Energy Reporting System, and could prepare for the commencement of the Scheme on 1 July 2010.



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Division 8, clause 41	1.21
Division 9, clause 42	1.48

**Part 3: Secrecy**

<i>Bill reference</i>	<i>Paragraph number</i>
Clause 43	1.62
Clause 44	1.64
Clause 45	1.64
Clause 46	1.64
Clause 47	1.64
Clauses 47-49	1.66
Clause 48	1.64
Clause 49	1.64, 1.68
Clause 49(6)	1.67
Clause 50	1.64
Clause 51	1.64
Clause 52	1.64
Clause 53	1.70

**Part 4: Miscellaneous**

<i>Bill reference</i>	<i>Paragraph number</i>
Clause 54	1.74