

Commonwealth of Australia

Australian Renewable Energy Agency Act 2011

**AUSTRALIAN RENEWABLE ENERGY AGENCY DETERMINATION NO 2
OF 2012**

Explanatory Statement

Issued by the authority of the Minister for Resources and Energy

MARTIN FERGUSON

Date of approval:

AUSTRALIAN RENEWABLE ENERGY AGENCY
DETERMINATION No 2 of 2012

General Outline

Section 7 of the *Australian Renewable Energy Act 2011* (**the Act**) establishes the Australian Renewable Energy Agency (**ARENA**). Section 17 of the Act establishes the Board of the Australian Renewable Energy Agency (**the Board**).

Section 20 of the Act provides that a general funding strategy must be developed by the Board and approved by the Minister for Resources and Energy (**the Minister**). Subsection 19(1) of the Act provides that the Board must, for the 2012-13 financial year and each later financial year, develop a general funding strategy for the provision of financial assistance under the Act.

The general funding strategy for the 2012-2013 must be developed as soon as practicable after the start of that year (s.19(2) of the Act).

A general funding strategy is required to be in writing and be expressed to relate to the financial year for which the strategy is developed and the next two financial years. It must also state ARENA's principal objectives and priorities for the provision of financial assistance under the Act during the three year period.

Subsection 19(4) of the Act provides that a general funding strategy must not require financial assistance to be provided to a particular person, or for a particular project. Section 10 of the Act requires that ARENA must not enter into an agreement for the provision of financial assistance unless the financial assistance provided for is in accordance with the general funding strategy approved by the Minister pursuant to subsection 20(2) of the Act.

On 2 July 2012 the *Australian Renewable Energy Agency Determination 2012 (the Original Determination)* was made in accordance with the *Australian Renewable Energy Agency Act 2011*. The funding strategy which was determined by the Original Determination was known as the Interim Funding Strategy. The Interim Funding Strategy allowed the ARENA Board to maintain industry momentum for renewable energy technology development and make initial funding decisions prior to the development of the general funding strategy which is determined by this Determination.

Determination of the varied general funding strategy

The varied general funding strategy attached to the *Australian Renewable Energy Determination No 2 of 2012* has been developed by the Board and approved by the Minister for Resources and Energy and is determined to be the general funding strategy for the purposes of section 19 of the Act. This general funding strategy wholly replaces the Interim Funding Strategy.

ARENA may release other documents that explain specific activities that ARENA will undertake within the framework set out in the general funding strategy, for example, an Investment Plan. The intention is that other Investment Plans may be released during the financial year without the need to amend the general funding strategy. The Investment Plan does not constitute part of the Determination.

Legislative Authority

Subsection 22(6) of the Act provides that a varied general funding strategy developed by the Board and approved by the Minister is a legislative instrument made by the Minister on the day on which the strategy is approved, but section 42 (disallowance) of the *Legislative Instruments Act 2003* (LIA) does not apply to a variation.

Subsection 22(5) of the Act provides that a variation comes into force at a time later of the following times:

- (a) the time when the Minister approves the variation;
- (b) the commencement time specified in the instrument of variation (not being a time before the instrument is made).

The Act may be found at:

<http://www.comlaw.gov.au/Details/C2011A00152>.

Once the Determination has been placed on the Federal Register of Legislative Instruments it can be found at:

<http://www.frli.gov.au/ComLaw/legislation/legislativeinstrument1.nsf/sh/browse&CATEGORY=legislativeinstrument>

Consultation

The following consultation occurred in relation to the making of the general funding strategy:

On 17 August 2012, the ARENA Chief Executive Officer met with 25 Western Australian stakeholders in Perth. The ARENA Board and CEO held a National Forum in Melbourne on 21 August 2012. Following the Forum, a teleconference was held with 15 stakeholders from the Northern Territory. The last stakeholder session was held in Brisbane on 24 August 2012 where the CEO met 35 Queensland stakeholders.

The consultation process also allowed for written submission; the submissions deadline was set at 27 August 2012. ARENA received 75 submissions in this process. In developing this general funding strategy, the ARENA Board considered the input provided in written submissions and feedback in the consultation sessions.

The Minister is satisfied that the requirements of section 17 of the LIA have been complied with and that appropriate consultation has been undertaken.

Statement of Compatibility with Human Rights

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Financial Implications

There are no financial implications.

Date of Effect

The Determination will commence on 9 November 2012.

Notes on Provisions

Clause 1 – Name of Determination

This prescribes the name of the Determination as the *Australian Renewable Energy Agency Determination No 2 of 2012*.

Clause 2 - Commencement

Clause 2 provides for the Determination to commence on 9 November 2012.

Clause 3 - Definition

Clause 3, for the purpose of this Determination, provides a definition of the Act authorising the making of the Determination. That is the *Australian Renewable Energy Agency Act 2011*. It also provides a definition for the Board and ARENA.

Clause 4 – Approval of the varied funding strategy

Clause 4 specifies that the varied funding strategy developed by the Board, approved by the Minister and published on ARENA's website, is the general funding strategy for the purposes of subsection 22(4) of the Act.