

EXPLANATORY STATEMENT

Issued by authority of the Minister for the Environment and Energy

Australian Renewable Energy Agency Act 2011

*Australian Renewable Energy Agency (General Funding Strategy) Determination
2018*

Section 19 of the *Australian Renewable Energy Agency Act 2011* (the “Act”) provides that the Board of the Australian Renewable Energy Agency (“ARENA”) must, for each financial year, develop a General Funding Strategy (“GFS”) to govern the provision of financial assistance by ARENA under the Act. A GFS must relate to the financial year for which the strategy is developed and the next two financial years, and must state ARENA’s principal objectives and priorities for the provision of financial assistance during this time period. Each GFS must be developed during the financial year previous to that in which it commences.

Section 20 provides that, as soon as practicable after developing a GFS for a financial year, the Board must present a copy to the Minister for approval. Following this, the GFS becomes a non-disallowable legislative instrument made on the date of Ministerial approval.

The *Australian Renewable Energy Agency (General Funding Strategy) Determination 2018* (the “Determination”) enacts ARENA’s GFS for the 2018/19 – 2020/21 financial years as a legislative instrument, as per the above.

The GFS for the 2018/19 – 2020/21 financial years is largely unchanged from the instrument that was prepared for the 2017/18 – 2019/20 financial years. ARENA consulted widely while preparing this earlier document. Consultation centred primarily on ARENA’s new investment priorities. The consultation process included a range of interviews and a series of workshops with industry and researchers in 2016. In addition, an embargoed version of the draft 2017 ARENA Investment Plan (a document closely related to the GFS, as outlined below) was distributed for input in March 2017. This consultation included a roundtable and written input from multiple Australian Government departments and agencies as well as energy industry leaders and broader industry groups and organisations.

Details of the Determination are outlined in **Attachment A**.

A statement of the Determination’s compatibility with human rights is set out in **Attachment B**.

There are no statutory pre-conditions that need to be satisfied before the power to make the Determination may be exercised.

ATTACHMENT A

Details of the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2018*

Section 1 – Name of Determination

Section 1 provides that the title of the Determination is the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2018*.

Section 2 – Commencement

Section 2 provides that the Determination commences the day after it is registered on the Federal Register of Legislation. To avoid any retrospectivity, this clause is taken to override sub-section 21(1) of the Act.

Section 3 – Authority

Section 3 provides that the Determination is made under the *Australian Renewable Energy Agency Act 2011*.

Section 4 – Definitions

Section 4 provides that the term “Act” in the instrument refers to the *Australian Renewable Energy Agency Act 2011*.

Section 5 – Repeals

Section 5 provides that the Determination, on the day that it comes into force, repeals the previous GFS (the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2017* (the “2017 Determination”). The power to do this derives from sub-section 33(3) of the *Acts Interpretation Act 1901*¹ read in conjunction with sub-section 21(2) of the Act.

Section 6 – Approval of General Funding Strategy

Section 6 provides that, by signing the Determination, the Minister thereby approves and makes the GFS for the 2018/19 – 2020/21 financial years (at Schedule 1 of the Determination) as a non-disallowable legislative instrument as at the date of signature. The power to do this derives from sub-section 20(2) of the Act.

It should be noted that sub-section 19(2) of the Act requires a GFS to be developed during the financial year previous to that in which it commences. The GFS for the 2018/19 – 2020/21 financial years was developed by the Board in the 2017/18 financial year, as required by sub-section 19(2).

The GFS for the 2018/19 – 2020/21 financial years should be read in conjunction with the latest ARENA Investment Plan. While the Investment Plan does not form part of

¹ Under sub-section 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

the Determination (and is therefore not formally part of the 2018/19 – 2020/21 GFS), it does outline non-binding principles the Board will consider when assessing funding applications.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Australian Renewable Energy Agency (General Funding Strategy) Determination 2018

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*.

Overview of the legislative instrument

The *Australian Renewable Energy Agency (General Funding Strategy) Determination 2018* enacts the Australian Renewable Energy Agency's General Funding Strategy for the 2018/19 – 2020/21 financial years as a legislative instrument.

Human rights implications

This legislative instrument does not engage any of the applicable human rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Josh Frydenberg MP
Minister for the Environment and Energy