

EXPLANATORY STATEMENT

Issued by authority of the Minister for Climate Change and Energy

Australian Renewable Energy Agency Act 2011

Australian Renewable Energy Agency (General Funding Strategy) Approval 2023

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) for 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 set out ARENA's principle 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 give a copy to the Minister for approval.

The *Australian Renewable Energy Agency (General Funding Strategy) Approval 2023* (the Approval) provides for the Minister's approval of ARENA's GFS for the 2023/24 – 2025/26 financial years.

The GFS for the 2023/24 - 2025/26 financial years has been updated from the 2022/23 - 2024/25 financial years to reflect the Government's priorities. ARENA's main objectives to improve the competitiveness of renewable energy technologies, increase the supply of renewable energy in Australia and facilitate the achievement of Australia's greenhouse gas emissions targets remain the primary focus of the GFS. On 23 July 2022, the *Australian Renewable Energy Agency Amendment (Powering Australia) Regulations 2022* came into effect and had the effect of amending the *Australian Renewable Energy Agency Regulation 2016* to add electrification and energy efficiency to ARENA's functions. The GFS investment priorities acknowledge the Government's commitment to net zero emissions by 2050, 43% emissions reductions by 2030 and the Government's *Powering Australia* plan to increase the share of renewables in the National Electricity Market to 82% by 2030. It also outlines a range of programs that ARENA can support, either through contributing lessons learnt and knowledge, or as an implementing agency.

Under subsection 20(2) of the Act this instrument is not subject to the disallowance process set out in section 42 of the *Legislation Act 2003*. The GFS is deemed a legislative instrument for transparency, not because it is intended to be subject to Parliamentary scrutiny. The nature of the GFS is not such that it imposes obligations on third parties, but is a policy and strategy document to guide the independent performance of ARENA's functions under the Act. Subsection 20(2) of the Act also reflects both the independence of ARENA in developing the GFS and the similarities of the GFS to government directions to statutory bodies that are also not subject to disallowance. As the provision of assistance by ARENA must be in accordance with

the GFS under section 10 of the Act, disallowance of some or all of the strategy could impede the ability for ARENA to independently perform its statutory functions.

As the Minister's role is to approve the GFS as developed by ARENA, separate consultation on that approval was not necessary as this was conducted by ARENA. ARENA has taken relevant stakeholder views into account in developing the GFS.

Details of the instrument are outlined in **Attachment A**. As the Approval is exempt from disallowance, a Statement of Compatibility with Human Rights is not required in accordance with paragraph 15J(2)(f) of the *Legislation Act 2003* and subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

ATTACHMENT A

Details of the *Australian Renewable Energy Agency (General Funding Strategy) Approval 2023*

Section 1 – Name

Section 1 provides that the title of the instrument is the *Australian Renewable Energy Agency (General Funding Strategy) Approval 2023*.

Section 2 – Commencement

Section 2 provides that the instrument commences from the time it was made by the Minister. This follows the requirements of subsections 20(2) and 21(1) of the Act.

Section 3 – Authority

Section 3 provides that the Approval is made under subsection 20(2) 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 – Schedules

Section 5 provides for the operation of the Schedules to amend or repeal instruments. Schedule 2 has the effect of repealing the previous GFS (the *Australian Renewable Energy Agency (General Funding Strategy) Determination 2022*). 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 Approval, the Minister thereby approves and makes the GFS for the 2023/24 – 2025/26 financial years (at Schedule 1 of the Approval). The power to do this derives from subsection 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 2023/24 – 2025/26 financial years was developed by the Board in the 2022/23 financial year, as required by subsection 19(2).

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.

Schedule 1—General Funding Strategy 2022/23 – 2024/25

Schedule 1 provides the detail of the general funding strategy developed by ARENA. It includes the context of the strategy, ARENA’s objectives (drawing on the object of the Act) and summary of overall strategy in clause 1. Clause 4 outlines the investment priorities, namely to:

- optimise the transition to renewable electricity,
- commercialise renewable hydrogen,
- support the transition to low emissions metals, and
- decarbonise transport.

Clause 1 also clarifies the relationship with the corporate plan² and investment plan³ and performance reporting. References to the corporate plan and investment plan are provided for context only and do not constitute part of the instrument.

Schedule 2—Repeals

Schedule 2 repeals the previous GFS instrument, the *Australian Renewable Energy Agency (General Funding Strategy) Approval 2022*.

² For context, ARENA’s corporate plan is available at: <https://arena.gov.au/about/publications/corporate-plan/>

³ For context, ARENA’s investment plan is available at: [Funding & Investment Plan - Australian Renewable Energy Agency \(ARENA\)](#)