



Model legislation – Development draft (not final)

Climate Emergency (Restructuring & Mobilisation) Act

Version 16, 25 April 2017

**A model Act to provide for the declaration of a
climate emergency, the restructuring of the
Australian economy, the mobilisation of resources,
and for related purposes**

Note: An electronic copy of the latest version of this Model Act is available from RSTI at:
[http://www.green-innovations.asn.au/RSTI/Climate-Emergency-\(Restructuring-&-Mobilisation\)-
Act_National.pdf](http://www.green-innovations.asn.au/RSTI/Climate-Emergency-(Restructuring-&-Mobilisation)-Act_National.pdf)

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**A model Act to provide for the declaration of a
climate emergency, the restructuring of the
Australian economy, the mobilisation of resources,
and for related purposes**

It is proposed that the Parliament of Australia enact as follows:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Climate Emergency (Restructuring & Mobilisation) Act*.

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Objects of this Act

- (1) The objects of this Act are to provide for the declaration of a climate emergency and to provide a legal and administrative structure to drive the restructuring of Australia's economy and infrastructure and to mobilise resources to:
 - (a) contribute fully to the global restoration of a safe climate and safe ocean pH; and
 - (b) prevent ecological, social and economic breakdown driven by climate and ocean pH change; and
 - (c) minimise the negative impacts of climate and ocean pH change on the Commonwealth of Australia; and
 - (d) contribute effectively to global efforts to minimise the negative impacts of climate and ocean pH on the climate vulnerable.
- (2) Objects (a) and (b) are the *primary objects* of this Act.

4 Simplified outline of this Act

Overview

This Act provides the Australian Government with the legal powers and planning machinery needed to restructure the economy and mobilise resources in order to prevent or limit a general climate and ocean acidification crisis and to urgently restore a safe climate and safe ocean pH.

Other Acts would need to be used to deal with the imminent or current impacts of extreme weather events exacerbated by climate change or ocean pH change.

Note The other Acts could include State or Territory emergency management Acts.

Planning and taking emergency action to restructure the economy and mobilise resources

This Act establishes:

- (a) the Safe Climate Framework Commission to carry out assessments and make determinations and elaborate the goals and provide targets and metrics to drive action under the Act (sections 7, 8 and 22);
- (b) the arrangements for specifying Safe Climate Framework Factors which shape strategic planning under the Act (section 21);
- (c) the Climate Emergency Restructuring Authority to carry out most of the strategic planning under the Act, and to drive implementation action (sections 9, 10 and 23);
- (d) the arrangements for determining the agencies that will carry out the remainder of the strategic planning (section 24).

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Switching on emergency action mode and activating general powers

When a Climate Emergency (Restructuring & Mobilisation) Declaration is made this action switches on emergency mode for the national government by making climate emergency action equal top priority for all government departments and agencies (except for the Safe Climate Framework Commission and the Climate Emergency Restructuring Authority for which climate and ocean pH issues are the top priority at all times).

The making of a Climate Emergency (Restructuring & Mobilisation) Declaration also activates the general powers of section 25 to pursue the purposes of the Declaration.

Effectiveness assurance system

This Act incorporates a number of elements that make up an effectiveness assurance system:

- (a) goal setting (sections 7, 8 and 22), which is built on the provisions of the Act (sections 3, 19 and 20), is separated administratively from strategic planning and action (sections 9, 10, 23 and 24) so that the goals can be set on the basis of need rather than ease of action;
- (b) when society is in emergency mode, the speed and effectiveness of action can be improved if robust strategic insights are included in the enabling legislation or are otherwise made available early in the piece, so the legislation contains key strategic insights (sections 3, 19 and 20) and provides for the fast production of Safe Climate Framework Factors (section 21).
- (c) solutions to the climate and ocean pH problems need to be of a huge scale and put in place very rapidly so a powerful action agency is needed (the Climate Emergency Restructuring Authority, sections 9 and 10), but fast action on a huge scale creates major risks that

- need independent assessment (the Sustainability-Solutions Assessment Commission, sections 11 and 12) but solutions proponents and solutions critiquers risk becoming locked into a polarised conflict so a further agency is needed to foster valid methods and fair play by the proponents and the critiquers (the Sustainability Integrity Commission, section 13 to 15).
- (d) the special administrative units (Part 2) can operate (Part 4 and section 25) without a Climate Emergency (Restructuring & Mobilisation) Declaration being in force, thus enabling work to be done to prepare for the making of a Declaration and allowing action on the Act's objects to progress or ramp up prior to the making of a Declaration.

5 Definitions

In this Act:

Climate Emergency (Restructuring & Mobilisation) Declaration: see section 18.

Climate Emergency (Restructuring & Mobilisation) Rules means the rules made under section 27.

Climate vulnerable means people or other species likely to be significantly impacted (directly or indirectly) by current or anticipated climate or ocean pH change and that have inadequate capacity to cope.

Drawdown means, at the earth system level, the reduction of total greenhouse gas levels in the air through human intervention.

Note: At present, only the drawdown of carbon dioxide is technically feasible at scale, but future technological innovation might make it possible to remove other greenhouse gases eg. methane.

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Earth system means the Earth’s interacting physical, chemical, and biological processes, involving the system elements of the land (soils, crust and mantle), oceans, atmosphere, ice environments, magnetosphere and living organisms.

Framework factors: means factors or sets of factors. See section 21.

Local governing body means:

- (a) a local governing body established by or under a law of a State, other than a body whose sole or principal function is to provide a particular service, such as the supply of electricity or water; or
- (b) a body declared by the Minister administering the *Local Government (Financial Assistance) Act 1995*, on the advice of the relevant State Minister, by notice published in the *Gazette*, to be a local governing body for the purposes of that Act.

Note: ‘Local governing body’ refers broadly to what people refer to as local councils, municipalities or self-governing ‘cities’ or shires.

Minister means, unless the context indicates otherwise, the Minister with prime responsibility for administering this Act.

- Note:
- (1) This Act and the Climate Emergency Restructuring Authority need to be administered by a Minister with the highest possible status (since they will have such a large impact on the economy and society), for example the Prime Minister or the Minister responsible for the economy or industry.
 - (2) The Safe Climate Framework Commission, the Sustainability-Solutions Assessment Commission and the Sustainability Integrity Commission may be administered by a different Minister – for example the Minister responsible for the environment.

Objects of this Act: see section 3.

Ocean pH change means ocean acidification, that is, a lowering of the ocean pH, due (largely) to the absorption of carbon dioxide emissions from the air.

pH is a measure of the relative alkalinity or acidity of an aqueous solution, where a value of 7 represents neutrality (neither acidic nor alkaline) and a value lower than 7 indicates an acidic solution and above 7 a basic solution, and a process of acidification involves a relative lowering of the pH value.

Primary objects: see paragraph 3(2).

Resources include, when referring to the mobilisation of resources and without limiting the generality of the term, people, skills, knowledge, finances, production capacity, material resources, social capacity.

Protection means, without limiting the generality of the term, the prevention of climate and ocean pH change-induced mortality, the maintenance of wellbeing for people, species or ecosystems and the prevention of the need to be a climate refugee.

Safe climate means a climate and ocean pH that is safe for human civilisation and living species as a whole, and it approximates to the climate and ocean pH conditions of the last several thousand years of the Holocene epoch, prior to the Anthropocene epoch.

Special administrative units are the four bodies established by Part 2 of this Act, that is, the Safe Climate Framework Commission, the Climate Emergency Restructuring Authority, the Sustainability-Solutions Assessment Commission and the Sustainability Integrity Commission.

Wellbeing includes health.

Zero emissions means, at the earth system level, "net zero" where any greenhouse gas emissions that do occur are fully offset by fast drawdown of an equivalent amount of greenhouse gases (usually carbon dioxide), and at the economy level means the large-scale adoption of true zero emissions technologies (ie. technologies that eliminate greenhouse gas emissions completely) with the least possible reliance on emitting technologies that require offsetting drawdown.

6 Crown to be bound

This Act binds the Crown in each of its capacities.

Part 2—Special administrative units

Division 1— Safe Climate Framework Commission

7 Establishment

- (1) The Safe Climate Framework Commission is established by this section.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Facility. That Act deals with matters relating to Commonwealth entities, including reporting and the use and management of public resources.

- (2) The Safe Climate Framework Commission:
- (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

Note: (1) The constitution of this commission would be included in a final Act as passed by Parliament.
(2) This commission might be administered by a Minister other than the Minister who administers this Act – for example the Minister responsible for the environment.

8 Functions of the Safe Climate Framework Commission

- (1) The functions of the Safe Climate Framework Commission are to:
- (a) assess the potential global impacts (direct and indirect) of climate change and reduced ocean pH, and in addition the impacts on the Commonwealth of Australia and any regions outside the Commonwealth that are of special interest to the Commonwealth; and

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- (b) determine who and what needs to be protected, globally and within the Commonwealth of Australia; and
- (c) determine an operational definition of a safe climate and safe ocean pH; and
- (d) determine target probabilities of success:
 - (i) for achieving a desired climate and ocean pH end state; and
 - (ii) for the climate and ocean pH restoration actions; and
- (e) determine global reference goals for the restoration of a safe climate and ocean pH, considering:
 - (i) safe climate and ocean pH goals (expressed by comparison with the 1750 preindustrial level):
 - (A) natural safe climate and ocean pH end state goals, to be achieved by when, and why; and
 - (B) prevention of climate and ocean pH catastrophes, to be achieved by when, and why; and
 - (C) safe transition (with the lowest possible impacts from the changed climate and reduced ocean pH during the transition to safe conditions), to be achieved by when, and why; and
 - (ii) key parameters that the Safe Climate Framework Commission needs to consider are:
 - (A) ocean heat content; and
 - (B) global surface temperature; and
 - (C) ocean pH; and
 - (D) sea level; and
- (f) determine any useful national, state/territory and local government-level climate and ocean pH goals based on the global goals; and
- (g) determine what needs to be done for effective protection worldwide and within the Commonwealth of Australia.

- (2) The Safe Climate Framework Commission has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (3) At all times, the Safe Climate Framework Commission must treat action on climate and ocean pH issues as the Commission's top priority.

Division 2— Climate Emergency Restructuring Authority

9 Establishment

- (1) The Climate Emergency Restructuring Authority is established by this section.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Facility. That Act deals with matters relating to Commonwealth entities, including reporting and the use and management of public resources.

- (2) The Climate Emergency Restructuring Authority:
 - (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

Note: The constitution of the authority would be included in a final Act as passed by Parliament.

10 Functions of the Climate Emergency Restructuring Authority

- (1) The functions of the Climate Emergency Restructuring Authority are to:
 - (a) develop options for practical solutions and structural change programs to drive catastrophe-prevention and the restoration of a safe climate and safe ocean pH; and

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- (b) drive (not necessarily carrying out) R&D for solutions; and
 - (c) negotiate the selection of a preferred option for implementation of each of the key elements of a program for the catastrophe-prevention and the restoration of a safe climate and safe ocean pH; and
 - (d) prepare strategic plans for the coordinated implementation of the adopted solutions; and
 - (e) engage with the entities carrying out the implementation of the strategic plan (in the government, business, labour and community sectors, etc.) to ensure effective follow through; and
 - (f) drive and manage the economic restructuring and the mobilisation of economic resources to achieve the Act's purposes; and
 - (g) develop and implement or arrange for the implementation of regulatory controls, pricing mechanisms, investment arrangements, partnerships, networks and whatever other mechanisms might be needed to give effect to the Authority's economic restructuring and the resource mobilisation strategies.
- (2) The Climate Emergency Restructuring Authority has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (3) At all times, the Climate Emergency Restructuring Authority must treat action on climate and ocean pH issues as the Authority's top priority.

Division 3— Sustainability-Solutions Assessment Commission

11 Establishment

- (1) The Sustainability-Solutions Assessment Commission is established by this section.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Facility. That Act deals with matters relating to Commonwealth entities, including reporting and the use and management of public resources.

- (2) The Sustainability-Solutions Assessment Commission:

- (a) is a body corporate; and
- (b) must have a seal; and
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued.

Note: (1) The constitution of this commission would be included in a final Act as passed by Parliament.
(2) This commission might be administered by a Minister other than the Minister who administers this Act – for example the Minister responsible for the environment.

12 Functions of the Sustainability-Solutions Assessment Commission

- (1) The functions of the Sustainability-Solutions Assessment Commission are to:

- (a) carefully assess solution concepts (especially involving technologies that are being or are proposed to be scaled up substantially or that are considered to have potential for significant negative side effects or that are controversial) and implementation plans that have been proposed or adopted by:
 - (i) policy advocates or lobbyists, where the Sustainability-Solutions Assessment Commission believes that the

Part 2 Special administrative units

Division 4 Sustainability-Solutions Assessment Commission

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- proposals are or could be taken seriously by society or any of the branches of government; or
- (ii) the Climate Emergency Restructuring Authority; or
 - (iii) the government or a government body; and
- (b) make determinations on:
- (i) the scientific and technical validity of claims made in relation to solutions; and
 - (ii) the value of the solutions for dealing effectively with the climate and ocean pH problems; and
 - (iii) the side effects and safety of solutions; and
 - (iv) the societal and ecological net benefit (if any) of solutions.
- (2) The Sustainability-Solutions Assessment Commission has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Division 4— Sustainability Integrity Commission

13 Establishment

- (1) The Sustainability Integrity Commission is established by this section.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Facility. That Act deals with matters relating to Commonwealth entities, including reporting and the use and management of public resources.

- (2) The Sustainability Integrity Commission:
- (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

- Note:
- (1) The constitution of this commission would be included in a final Act as passed by Parliament.
 - (2) This commission might be administered by a Minister other than the Minister who administers this Act – for example the Minister responsible for the environment.

14 Functions of the Sustainability Integrity Commission

- (1) The functions of the Sustainability Integrity Commission are to:
 - (a) carefully assess the methodological, factual and risk assessment validity of the arguments made by problem definers, solutions proponents, critical assessors of solutions, advocates and decision-makers in:
 - (i) defining the climate and ocean pH problems or issues; and
 - (ii) arguing for or against solutions to the climate and ocean pH problems; and
 - (b) use its influence to ensure, as far as possible, high quality arguments and fair play by problem definers, solutions proponents, critical assessors of solutions, advocates and decision-makers in order to discourage distorting bias and faulty methods and invalid conclusions.
- (2) The Sustainability Integrity Commission has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

15 Mode of operation

The Sustainability Integrity Commission must ensure that it:

- (a) has high quality in-house skills and has access to high quality external expertise and knowledge; and
- (b) maintains a strictly neutral position regarding solutions (taking a position neither for nor against) but instead must focus its work on assessing and reporting on the validity and factual accuracy of whatever arguments are made by problem

Part 2 Special administrative units

Division 5 Other administrative matters

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and issue definers, solutions proponents, critical assessors and decision-makers.

Division 5—Other administrative matters

16 Powers of reporting

As well as reporting to the relevant Minister responsible for their operations, the four special administrative units created by Part 2 of this Act may report on their own initiative to, and must report upon request to the Prime Minister or the House of Representatives or the Senate.

17 Cooperative administration

- (1) Subject to paragraph (2), the special administrative units created by this Act must work consultatively and cooperatively with the other governments and levels of government in Australia.
- (2) Paragraph (1) does not preclude Commonwealth departments or agencies working under this Act from imposing requirements under the Act on other jurisdictions where it is warranted.
- (3) Subject to paragraph (4), and in order to improve efficiency and to assist other levels of government, the special administrative units created by this Act may, by agreement, perform some of their statutory functions under this Act on behalf of a state or territory government or for a local governing body within Australia or for a jurisdiction outside Australia.
- (4) Actions under paragraph (3) must not be carried out in a way that creates an unmanageable conflict of interest between the Commonwealth and another jurisdiction, and if any potential action under paragraph (3) cannot be undertaken without an unmanageable conflict of interest then that action should not be undertaken.

Note: The government may allocate for implementation actions identified under the strategic planning processes of this Act to any appropriate government department or agency.

Part 3—Climate Emergency (Restructuring & Mobilisation) Declarations

18 Declarations of a climate emergency for economic restructuring and mobilisation

Note: In this section, references to actions by the Governor-General are in practical terms references to actions by the Australian government.

The making of a Climate Emergency (Restructuring & Mobilisation) Declaration

- (1) If the Governor-General believes, on reasonable grounds, that a climate and ocean pH emergency exists and that dealing with the emergency necessitates the taking of special temporary measures relating to:
- (a) the restructuring of the Australian economy or infrastructure;
 - or
 - (b) the mobilisation of resources—
- then the Governor-General, after such consultation as is required by this Act, may, by proclamation, make such a declaration, to be called a Climate Emergency (Restructuring & Mobilisation) Declaration.

The content of a declaration

- (2) A Climate Emergency (Restructuring & Mobilisation) Declaration must specify:
- (a) concisely the state of affairs constituting the emergency; and
 - (b) the special temporary measures that may be necessary for the Commonwealth of Australia to deal with the emergency, indicating that these measures are to satisfy the objects of this Act, the safety goals in section 19 and the earth system-level solution goals in section 20; and

- (b) subject to paragraph (3), the duration of the climate emergency, which may not exceed 2 years.

Extension of a declaration

- (3) A Climate Emergency (Restructuring & Mobilisation) Declaration may be extended for a further period using the process in paragraph (1) if the Governor-General believes, on reasonable grounds that more time is needed to achieve the declaration's purposes.
- (4) The Governor-General may extend a Climate Emergency (Restructuring & Mobilisation) Declaration as often as is needed to achieve the declaration's purposes but must not extend a declaration unless there is a clear need for emergency action (as opposed to routine action).

Consultation with States or Territories

- (5) Before making or extending a Climate Emergency (Restructuring & Mobilisation) Declaration the Governor-General must consult with the Governments of any States or Territories affected by the declaration.

Activation of general powers

- (6) The general powers established by section 25 of this Act may be used to give effect to any Climate Emergency (Restructuring & Mobilisation) Declaration that is in force.

More than one declaration may be in force at a time

- (7) More than one Climate Emergency (Restructuring & Mobilisation) Declaration may be in force at one time, provided the focus of the climate emergency problem, as defined in each declaration, is substantially different.

Note: For example, one Climate Emergency (Restructuring & Mobilisation) Declaration might refer to the global situation while another might

Part 3 Climate Emergency (Restructuring & Mobilisation) Declarations

Other administrative matters

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refer to more localised serious threats that require specialised economic restructuring and resource mobilisation as part of an adaptation strategy.

Action priority

- (8) Subject to sections 8(3) and 10(3), when a Climate Emergency (Restructuring & Mobilisation) Declaration is in force, all government departments and agencies must treat effective action to resolve the climate and ocean pH emergency as their equal top priority.

Special revocation

- (9) A Climate Emergency (Restructuring & Mobilisation) Declaration may be revoked by a motion of both Houses of Parliament.

Part 4—Strategic assessment, planning and action

19 Safety goals

The climate and ocean pH safety goals are:

- (a) to stop the plunge into catastrophe immediately; and
- (b) to back out of danger very fast; and
- (c) to move the earth system back to an optimal safe climate and safe ocean pH as soon as possible with the least possible damage during the transition back to safety (with the speed calibrated by the commitment to protect and informed by a cost/benefit assessment).

20 The earth system-level solution goals

The earth system-level climate and ocean pH solutions goals are to:

- (a) convert the economy to zero emissions in as short a time as possible (as far under 10 years as possible); and
- (b) put in place a massive greenhouse gas drawdown capacity in as short a time as possible (as far under 10 years as possible); and

Note: The drawdown process could take hundreds of years to complete or, with a stupendous effort of scaling up, it might perhaps last only many decades - but it will not be completed during the restructuring emergency period.)

- (c) put in place, **but only if it can deliver clear net environmental benefit**, a temporary, fully scaled solar reflection system to provide short term global cooling, to prevent major earth system tipping points and to protect people, other species and food production while natural safe conditions are restored.

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21 Specifying Safe Climate Framework Factors

- (1) Subject to paragraph (2), the Minister may, by legislative instrument, specify Safe Climate Framework Factors for these categories:
 - (a) who or what is to be protected from climate and ocean pH change (globally and locally);
 - (b) the degree of success to be pursued;
 - (c) climate and ocean pH restoration goals, targets or metrics;
 - (d) earth system solutions;
 - (e) adaptation goals, targets or metrics;
 - (f) economic restructuring and mobilisation;
 - (g) social wellbeing and adjustment;
 - (h) community engagement;
 - (i) international engagement.
- (2) In the same instrument the Minister must specify which Commonwealth administrative unit will advise the Minister on the appropriate Safe Climate Framework Factors for each category.

Note: See the endnotes for the initial set of framework factors and the responsibilities that would be specified.

22 Strategic assessment and determinations made by Safe Climate Framework Commission

- (1) The Safe Climate Framework Commission must consider and determine, by legislative instrument, the following matters:
 - (a) who or what is to be protected from climate and ocean pH change, globally and not just within the Commonwealth of Australia; and
 - (b) the degree of success to be pursued in any protection efforts; and
 - (c) climate and ocean pH restoration goals, targets or metrics for the restoration of climate and ocean pH that logically flow

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-
- from the earlier determination of who and what to protect and the degree of certainty of success; and
- (d) earth system solutions; and
 - (e) adaptation goals, targets or metrics.
- (2) The Safe Climate Framework Commission must appraise the state of scientific knowledge about climate and ocean pH to determine whether and how the people and things that have been identified for protection can be protected with the degree of certainty that has been selected; and how the maximum degree of protection can be delivered in earth system terms.
- (3) When making or revising these determinations, the Safe Climate Framework Commission must take full account of:
- (a) the safety goals in section 19; and
 - (b) the earth system-level solution goals in section 20; and
 - (c) the Safe Climate Framework Factors [categories (a) to (e)] specified under section 21.
- (4) Decisions on who or what to protect (globally and locally) must be motivated by both ethical and self-interested concerns, approached in an additive way rather than as a trade off against ethical concerns in favour of self-interest concerns.
- (5) The degree of success to be pursued should be framed by consideration of:
- (a) the ethics and interests relevant to the Commonwealth of Australia; and
 - (b) the approach used by leading edge safety methodologies.

23 Strategic planning and actions undertaken by Climate Emergency Restructuring Authority

- (1) The Climate Emergency Restructuring Authority must develop a strategic plan or plans for restructuring the economy and mobilising resources in order to achieve the objects of this Act and

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the purposes of any declaration of climate emergency that might be in force.

- (2) When developing its program of strategic planning and when preparing a specific strategic plan under this section, the Climate Emergency Restructuring Authority must:
- (a) take full account of:
 - (i) the objects of this Act; and
 - (ii) the safety goals in section 19; and
 - (iii) the earth system-level solution goals in section 20; and
 - (iv) the Safe Climate Framework Factors [categories (a) to (e)] specified under section 21; and
 - (v) the determinations of the Safe Climate Framework Commission and the advice of the Sustainability-Solutions Assessment Commission and the Sustainability Integrity Commission; and
 - (b) give priority to this Act's primary objects; and
- Note: So the total investment in action on climate and ocean pH must be expanded sufficiently so that both the restoration of climate and ocean pH and adaptation can both be pursued effectively.
- (c) give serious consideration to the necessary scale and urgency of the restructuring and mobilisation task, including any deadlines that need to be met to satisfy the protection objectives established under this Act.

24 Strategic assessment and planning undertaken by appropriate agencies

The Minister must arrange for an appropriate government department or agency to develop a strategic plan or plans to deal with the following matters for the purpose of achieving this Act's objects:

- (a) social wellbeing and adjustment; and
- (b) community engagement; and

- (c) building international cooperation and reforming the goals of international climate and ocean pH negotiations.

Part 5—General powers and safeguards

25 General powers

Note: In this section, references to actions by the Governor-General are in practical terms references to actions by the Australian government.

Subject to the other provisions of this Act, the Governor-General may make such rules or regulations (known as Climate Emergency (Restructuring & Mobilisation) Rules or Regulations) as are deemed necessary or desirable to effectively and efficiently achieve the objects of:

- (a) this Act; and
- (b) any Climate Emergency (Restructuring & Mobilisation) Declaration that is in force.

26 Safeguards

- (1) No power created by or under this Act shall enable the Act itself to be modified.

Note: For practical purposes this Act may only be amended or repealed by Parliament.

- (2) *(Further safeguards to come)*

Note: Safeguards to be considered for inclusion in this Act might deal with the maintenance of civil liberties.

Part 6—Miscellaneous

27 Climate Emergency (Restructuring & Mobilisation) Rules

- (1) The Minister may, by legislative instrument, make Climate Emergency (Restructuring & Mobilisation) Rules or other named legislative instrument prescribing matters:
 - (a) required or permitted by this Act to be prescribed by Climate Emergency (Restructuring & Mobilisation) Rules or legislative instrument; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) To avoid doubt, the Climate Emergency (Restructuring & Mobilisation) Rules or other named legislative instruments 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.

28 Climate Emergency (Restructuring & Mobilisation) Regulations

Note: In this section, references to actions by the Governor-General are in practical terms references to actions by the Australian government.

The Governor-General may make regulations, to be known as the Climate Emergency (Restructuring & Mobilisation) Regulations, prescribing matters:

- (a) required or permitted by this Act to be prescribed by the regulation; or
-

Section 29

- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

29 Review of operation of Act

The operation of this Act shall be reviewed by the Senate, at its discretion, while the Act is in force.

Note: It is recommended to the Senate that it establish, as soon as possible, a standing committee to review all issues relating to climate and ocean pH emergencies and effective responses to them.

Endnotes

Endnote 1— Government-level administration – Climate unity cabinet

- (1) A special Cabinet sub-committee (that could be called the Climate Cabinet) is needed to drive the government-level administration of this Act, especially actions needed under a declaration of a climate emergency.
- (2) The Climate Cabinet should, if at all possible, include participants from opposition, cross-bench parties and independent members so that the climate and ocean pH emergency program can have a supermajority of strong support - to make full-strength, fast action possible and to ensure that the program is not jeopardised upon any change of government.

Endnote 2— Initial Safe Climate Framework Factors

Note: This Note contains information that will not be included in the Act but that will be issued under section 21 of this Act after the Act comes into force.

1 Who or what is to be protected (globally and locally)

Matters to consider

- (1) Ethics and interests that motivate the need to protect.
- (2) Recommendations for protection.
 - (a) All people and species, globally, with especial concern for the most vulnerable (people and species).
 - (b) Human communities and ecosystems.
 - (i) The people of the atoll nations (Pacific, Indian Oceans etc.).

Endnotes

Endnote 2— Initial Safe Climate Framework Factors

- (ii) The people and ecosystems of the major river deltas (eg. Yellow, Yangtze, Mekong, Ganges/Brahmaputra, Irrawaddy, Indus, Tigris-Euphrates, Nile, Rhine, Niger, Mississippi, Orinoco).
- (iii) People who are or will be significantly impacted (directly or indirectly) by current and anticipated climate and ocean pH change and who have the least capacity to cope (the climate vulnerable).
- (iv) Major food producing regions.
- (v) Coral reef, mangrove and marine kelp forest ecosystems (globally).
- (vi) The Southern Ocean and Arctic Oceans and any other oceans threatened by rising ocean acidity.
- (vii) Forests (globally).
- (c) Vital earth system elements.
 - (i) Ice sheets being eroded by 'warmer' sea water (eg. West Antarctic, sections of Greenland, Totten catchment in East Antarctica).
 - (ii) The carbon stores of the Arctic tundra (land-based permafrost) and the Arctic Ocean (submerged permafrost and clathrates).
- (d) Civilisation and peace.
- (e) Areas or processes of special significance to the Commonwealth of Australia (whether within the Commonwealth or beyond).

Keeping this class of framework factors up-to-date

- (3) Advice on amending this class of framework factors must be provided by the Safe Climate Framework Commission.

2 The degree of success to be pursued

Matters to consider

- (1) The climate and ocean pH safety goals in section 19.

Endnote 2— Initial Safe Climate Framework Factors

- (2) Over 250 years the basic shifts in the approach to industrial safety have been from an emphasis on:
 - (a) employee responsibility to management responsibility; and
 - (b) post-accident coping to prevention; and
 - (c) non-systematic management to whole-system management; and
 - (d) risk reduction to risk elimination (the goal is ‘zero’).
- (3) Given that a climate and ocean pH restoration effort is a once-off project, the aim should be certainty of achieving the safety goals in section 19.

Keeping this class of framework factors up-to-date

- (4) Advice on amending this class of framework factors must be provided by the Safe Climate Framework Commission.

3 Climate and ocean pH restoration goals, targets or metrics

Matters to consider

- (1) Threats to be avoided.
 - (a) Impacts on the people and things to be protected.
 - (b) Earth system tipping points.
 - (c) Irreversibilities (absolute and practical).
- (2) Desired conditions or end states to be achieved.
- (3) Deadlines or urgency.
- (4) Mass balances:
 - (a) Levels (stocks).
 - (b) Flows or rates.
- (5) Environmental dynamics (linear, nonlinear).

Endnotes

Endnote 2— Initial Safe Climate Framework Factors

Keeping this class of framework factors up-to-date

- (6) Advice on amending this class of framework factors must be provided by the Safe Climate Framework Commission.

4 Earth system solutions

Matters to consider

- (1) Zero emissions.
- (2) Drawdown of all the excess greenhouse gases from the atmosphere (most likely this would involve carbon dioxide removal).
- (3) Consideration of solar reflection methods:
 - (a) What is a suitable consideration process?
 - (b) Can any version or combination of solar reflection methods deliver clear net environmental benefits for people and biodiversity?
 - (c) What is a suitable decision-making process?

Keeping this class of framework factors up-to-date

- (4) Advice on amending this class of framework factors must be provided by the Safe Climate Framework Commission.

5 Adaptation goals, targets or metrics

Matters to consider

- (1) (To come.)

Keeping this class of framework factors up-to-date

- (2) Advice on amending this class of framework factors must be provided by Safe Climate Framework Commission.

6 Economic restructuring and mobilisation

Matters to consider

- (1) The climate and ocean pH safety goals in section 19 and the earth system-level solution goals in section 20.
- (2) Economic modelling (& indicative planning).
- (3) Ending inappropriate new investment.
 - (a) Regulation
 - (b) Financing or compensation (where appropriate).
- (4) Closure of inappropriate existing economic activity.
- (5) Conversion (repurposing) of underutilised productive capacity during the economic restructuring process.
- (6) Adaptation to climate and ocean pH change.
- (7) Investment in priority areas.
 - (a) Infrastructure.
 - (b) R&D.
 - (c) Training.
 - (d) Developing core capacity (eg. zero emissions, greenhouse gas drawdown and possibly solar reflection capacity if approved).
 - (e) Monitoring and dealing with under-investment by the private sector.
- (8) Macroeconomic management.
 - (a) Inflation control and price control.
 - (b) Managing the severity and frequency of boom-bust cycles.
 - (c) Ecologically sustainable development.
 - (i) Limiting and systematically reducing the macro-ecological impacts of the economy.
 - (ii) Creating a closed cycle economy.

Endnotes

Endnote 2— Initial Safe Climate Framework Factors

- (d) Reshaping Australia's exports, and balancing exports and imports and the external account.
- (9) Priority setting (via pricing, investment and administration).
 - (a) Pricing (via cap and trade, regulatory taxation, rebates etc.).
 - (b) Financial allocation.
 - (c) Materials allocation.
 - (d) Production capacity allocation.
 - (e) Labour allocation.
 - (f) Supply rationing.

Keeping this class of framework factors up-to-date

- (10) Advice on amending this class of framework factors must be provided by Climate Emergency Restructuring Authority.

7 Social wellbeing and adjustment

Matters to consider

- (1) Wellbeing.
- (2) Maintenance of civil liberties.
- (3) Compensation.
- (4) Prevention of the need to be climate refugees and humane care for climate refugees.
- (5) Transition facilitation and support.
 - (a) A Jobs Guarantee to provide alternative employment for people whose jobs are displaced by the climate and ocean pH emergency restructuring.
- (6) Geographical distribution of new economic activity arising from the climate and ocean pH emergency restructuring.

Endnote 2— Initial Safe Climate Framework Factors

Keeping this class of framework factors up-to-date

Note: In this subsection, references to actions by the Governor-General are in practical terms references to actions by the Australian government.

- (7) The Governor-General must ensure that at all times an appropriate government agency is responsible providing advice on amending this class of framework factors.

8 Community engagement*Matters to consider*

- (1) Maintenance and strengthening of democracy.
- (2) Education program.
- (3) A community-wide, mass scale deliberation program about how to effectively achieve the purposes of this Act.

Keeping this class of framework factors up-to-date

Note: In this subsection, references to actions by the Governor-General are in practical terms references to actions by the Australian government.

- (4) The Governor-General must ensure that at all times an appropriate government agency is responsible providing advice on amending this class of framework factors.

9 International engagement*Matters to consider*

- (1) Building international cooperation.
- (2) Reforming the goals of international climate and ocean pH negotiations.

Endnotes

Endnote 2— Initial Safe Climate Framework Factors

Keeping this class of framework factors up-to-date

Note: In this subsection, references to actions by the Governor-General are in practical terms references to actions by the Australian government.

- (3) The Governor-General must ensure that at all times an appropriate government agency is responsible providing advice on amending this class of framework factors.

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Assisting the development of this Model Act

If you or your organisation:

- can help with the development and improvement of this Model Act or have specific suggestions for corrections or amendments, or
- would like to use this Model Act

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