

**Version No. 021**  
**Sustainable Energy Authority Victoria Act**  
**1990**

**Act No. 40/1990**

Version incorporating amendments as at 5 April 2005

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**Version No. 021**  
**Sustainable Energy Authority Victoria Act**  
**1990**

**Act No. 40/1990**

Version incorporating amendments as at 5 April 2005

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purpose**

The purpose of this Act is to establish and regulate the Sustainable Energy Authority Victoria.

S. 1  
substituted by  
No. 13/2000  
s. 3.

**2. Commencement**

This Act comes into operation on a day to be proclaimed.

**3. Definitions**

In this Act—

**"Authority"** means the Sustainable Energy Authority Victoria established by section 4;

S. 3 def. of  
"Authority"  
substituted by  
No. 13/2000  
s. 4(2)(a).

**"renewable energy"** includes energy which comes from sources such as the sun, wind, waves, tides, the hydrological cycle, biomass, and geothermal sources.

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*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Part 2—Sustainable Energy Authority Victoria

s. 4

Pt 2 (Heading)  
substituted by  
No. 13/2000  
s. 4(2)(b).

**PART 2—SUSTAINABLE ENERGY AUTHORITY VICTORIA**

**4. Sustainable Energy Authority Victoria**

S. 4(1)  
substituted by  
No. 13/2000  
s. 4(1).

- (1) There is established a body corporate called the Sustainable Energy Authority Victoria.
- (2) The Authority—
  - (a) has perpetual succession; and
  - (b) is capable of acquiring, holding and disposing of property; and
  - (c) may sue and be sued in its corporate name; and
  - (d) is to have a common seal; and
  - (e) may do and suffer all acts and things that a body corporate may by law do and suffer and that are consistent with the powers given to it by this Act.
- (3) The common seal of the Authority can only be used in a way approved by the Authority.
- (4) All courts and people acting judicially must take judicial notice of the seal of the Authority.

S. 5  
substituted by  
No. 13/2000  
s. 5.

**5. Objectives of the Authority**

The objectives of the Authority are to facilitate energy efficiency and the development and use of renewable energy to achieve environmental and economic benefits for the Victorian community and to contribute to the reduction of greenhouse gas emissions.

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*Act No. 40/1990*

Part 2—Sustainable Energy Authority Victoria

s. 6

**6. Functions of the Authority**

The functions of the Authority are—

- (a) to ensure that the objectives of the Authority are met to the maximum extent that is practicable; and
- (b) to provide information and advice on the efficient use of energy, including renewable energy, and the resulting benefits to all sectors of the Victorian community; and
- (c) to encourage and promote the use of renewable energy and energy efficiency and to facilitate the implementation of energy efficiency measures in all sectors of the Victorian economy including government, business and households; and
- (d) to encourage and promote the development of an economically viable renewable energy and energy efficiency industry in Victoria; and
- (e) to monitor and evaluate research and development on energy efficiency and renewable energy; and
- (f) to advise the Minister on policies concerning energy efficiency and renewable energy and related greenhouse gas issues.

S. 6  
substituted by  
No. 13/2000  
s. 5.

**7. Powers of the Authority**

The Authority may do all things that are necessary or convenient to enable it to perform its functions.

**8. Restrictions on the powers of the Authority**

(1) The Authority must not—

- (a) lend or grant more than \$25 000 to a particular person or body in any period of 12 months; or

S. 8(1)(a)  
substituted by  
No. 13/2000  
s. 6(a).

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*Act No. 40/1990*

Part 2—Sustainable Energy Authority Victoria

s. 9

S. 8(1)(b)(i)  
amended by  
No. 13/2000  
s. 6(b).

(b) enter into an agreement—

(i) which involves, or is likely to involve,  
the spending of more than \$250 000 (or  
any other limit specified by regulation);  
or

(ii) which will last for more than 3 years—  
without the consent in writing of the Minister.

(2) The Authority—

(a) must not borrow money without the approval  
of the Treasurer; and

(b) must comply with any conditions imposed  
by the Treasurer on a borrowing.

**9. Treasurer may give guarantee**

- (1) The Treasurer may guarantee the repayment of  
any loan (and any associated costs, charges and  
interest) taken out by the Authority.
- (2) The Treasurer may impose conditions on any  
guarantee given under this section.
- (3) Any sum required by the Treasurer to fulfil any  
guarantee given under this section is to be paid out  
of the Consolidated Fund (which is hereby to the  
necessary extent appropriated accordingly) and  
any sum received by the Treasurer in respect of  
any sum so paid by the Treasurer is to be paid into  
the Consolidated Fund.

**10. Members of the Authority**

- (1) The Authority is to have 7 members.
- (2) The Governor in Council must appoint—
  - (a) a Chairperson of the Authority; and
  - (b) a general manager of the Authority, who is to  
be a member of the Authority while he or she  
holds that position; and

*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Part 2—Sustainable Energy Authority Victoria

**s. 10**

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- (c) 5 other people to be members of the Authority.
- (3) The Governor in Council may only appoint a person to be a member if the Governor in Council is of the opinion that the person has skills, experience or knowledge which will help the Authority to perform its functions.
- (4) The Governor in Council—
- (a) may appoint a person to be a member for any period of up to 5 years; and
  - (b) may re-appoint a member; and
  - (c) may at any time remove a member; and
  - (d) must fill any vacancy that occurs in the membership of the Authority.
- (5) A member—
- (a) is not, in respect of his or her office as a member, subject to the **Public Administration Act 2004** (other than Part 5 of that Act); and
  - (b) is to hold office on the terms and conditions determined by the Governor in Council; and
  - (c) may resign from office by delivering a signed letter of resignation to the Governor in Council.
- (6) If the Chairperson is likely to be absent for more than 1 month, the Governor in Council may appoint a member to act as Chairperson during the absence.

**S. 10(5)(a)**  
**amended by**  
**No. 46/1998**  
**s. 7(Sch. 1),**  
**substituted by**  
**No. 108/2004**  
**s. 117(1)**  
**(Sch. 3**  
**item 198.1).**

*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Part 2—Sustainable Energy Authority Victoria

**s. 11**

- (7) An act or decision of the Authority is not invalid by reason only of vacancies in the membership of the Authority or of defects in the appointment of members of the Authority.

**11. Meetings of the Authority**

- (1) A matter cannot be decided at a meeting of the Authority unless at least 4 members are present.
- (2) The person presiding at a meeting has both a deliberative vote and a casting vote.
- (3) The Authority may regulate its own procedure.

**12. Pecuniary interests of members**

- (1) A member who has a pecuniary interest in a matter being considered, or about to be considered, by the Authority must declare that interest to a meeting of the Authority as soon as practicable after he or she becomes aware of the relevant facts.
- (2) The person presiding at a meeting at which a declaration is made must ensure that a record of the declaration is made in the minutes of the meeting.
- (3) After a declaration is made by a member—
- (a) the member must not be present during any deliberation with respect to that matter; and
  - (b) the member is not entitled to vote on the matter.

**13. Staff**

Any employees that are necessary to assist the Authority to perform its functions are to be employed under Part 3 of the **Public Administration Act 2004**.

S. 13  
substituted by  
No. 46/1998  
s. 7(Sch. 1),  
amended by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 198.2).



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**14. Administration**

The general manager of the Authority is responsible for the day to day administration of the affairs of the Authority, but is subject to the policies and directions of the Authority.

**15. Minister may give directions**

- (1) The Minister may at any time give directions to the Authority concerning the policies it is to give effect to.
- (2) The Authority must give effect to any direction given to it by the Minister as soon as possible and must report to the Minister on the action taken by it to give effect to the direction.
- (3) The Authority must publish any direction given to it by the Minister in its annual report.

**16. Authority must give the Minister information**

- (1) The Authority must give the Minister any information that the Minister asks for as soon as possible.
  - (2) The Authority must give the Minister each year a copy of its strategic plan and its draft budget.
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*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Part 3—Finances

s. 17

Pt 3 (Heading)  
amended by  
No. 31/1994  
s. 4(Sch. 2  
item 72.1).

**PART 3—FINANCES**

**17. General Fund**

- (1) The Authority must keep a fund called the General Fund.
- (2) The Authority must ensure that all money received by it, or on its behalf, is paid into the General Fund.
- (3) The Authority may pay money out of the General Fund—
  - (a) to pay any expenses incurred by it in exercising its powers;
  - (b) to make loans or grants under this Act;
  - (c) to repay any money borrowed by it under this Act together with any charges or interest on that money;
  - (d) for any other purpose authorized by this Act.
- (4) The Authority must ensure that all money in the General Fund that is not required for the immediate needs of the Authority is kept in an account or accounts at a financial institution approved by the Treasurer for the purpose.

Ss 18–20  
repealed by  
No. 31/1994  
s. 4(Sch. 2  
item 72.2).

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**PART 4—REGULATIONS**

Pt 4 (Heading)  
amended by  
No. 13/2000  
s. 8.

**21. Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) specifying the limit above which agreements of the Authority require the approval of the Minister;
  - (b) prescribing any matters or things which are necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this section may be disallowed in whole, or in part, by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (3) Disallowance under sub-section (2) is deemed to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.
- (4) Where, under this section, either House of the Parliament disallows any regulation, or any regulation is deemed to have been disallowed, no regulation, being the same in substance as the regulation so disallowed, or deemed to have been disallowed, shall be made within 6 months after the date of the disallowance, unless—
  - (a) in the case of a regulation disallowed by resolution—the resolution has been rescinded by the House of the Parliament by which it was passed; or

*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Part 4—Regulations

**s. 21**

(b) in the case of a regulation deemed to have been disallowed—the House of the Parliament in which notice of the motion to disallow the regulation was given by resolution approves the making of a regulation the same in substance as the regulation deemed to have been disallowed.

(5) Any regulation made in contravention of this section shall be void and of no effect.

**S. 22**  
repealed by  
No. 9/1996  
s. 29.

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*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Part 5—Transitional Provisions

s. 23

**PART 5—TRANSITIONAL PROVISIONS**

Pt 5  
(Heading and  
ss 23–25)  
substituted as  
Pt 5  
(Heading and  
ss 23–26) by  
No. 13/2000  
s. 7.

**23. Authority same body as former Authority**

S. 23  
substituted by  
No. 13/2000  
s. 7.

For all relevant legal purposes, the Authority is to be taken to be the same body as the Renewable Energy Authority Victoria was before 1 July 2000, despite any of the changes made to its name, structure, functions and operation by the **Renewable Energy Authority Victoria (Amendment) Act 2000** and no matter or thing is to be affected because of those changes.

**24. References to former bodies**

S. 24  
substituted by  
No. 13/2000  
s. 7.

Any reference to the Renewable Energy Authority Victoria in any subordinate instrument, certificate of title, agreement or other document as far as it relates to any period after 1 July 2000 is to be construed as a reference to the Authority, unless the contrary intention appears.

**25. References to former Act name**

S. 25  
substituted by  
No. 13/2000  
s. 7.

Any reference to the **Renewable Energy Authority Victoria Act 1990** in any subordinate instrument, certificate of title, agreement or other document as far as it relates to any period after 1 July 2000 is to be construed as a reference to this Act, unless the contrary intention appears.

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*Act No. 40/1990*

Part 5—Transitional Provisions

s. 26

S. 26  
inserted by  
No. 13/2000  
s. 7.

**26. Former Authority members go out of office**

The members of the Renewable Energy Authority Victoria cease to hold office immediately before the **Renewable Energy Authority Victoria (Amendment) Act 2000** comes into operation.

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*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

Endnotes

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**ENDNOTES**

**1. General Information**

*Minister's second reading speech—*

*Legislative Assembly: 2 May 1990*

*Legislative Council: 24 May 1990*

The long title for the Bill for this Act was "A Bill to create the Renewable Energy Authority Victoria and to repeal the **Victorian Solar Energy Council Act 1980** and for other purposes."

The **Renewable Energy Authority Victoria Act 1990** was assented to on 13 June 1990 and came into operation 1 July 1990: Government Gazette 27 June 1990 page 1926.

The name of this Act was changed from the **Renewable Energy Authority Victoria Act 1990** to the **Sustainable Energy Authority Victoria Act 1990** by section 9 of the **Renewable Energy Authority Victoria (Amendment) Act 2000**, No. 13/2000.

*Sustainable Energy Authority Victoria Act 1990*  
*Act No. 40/1990*

<b>Endnotes</b>
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## 2. Table of Amendments

This Version incorporates amendments made to the **Sustainable Energy Authority Victoria Act 1990** by Acts and subordinate instruments.

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### **Financial Management (Consequential Amendments) Act 1994, No. 31/1994**

*Assent Date:* 31.5.94  
*Commencement Date:* S. 4(Sch. 2 items 72.1, 72.2) on 1.1.95: Government Gazette 28.7.94 p. 2055  
*Current State:* This information relates only to the provision/s amending the **Sustainable Energy Authority Victoria Act 1990**

### **Parliament House Completion Authority Act 1996, No. 9/1996**

*Assent Date:* 25.6.96  
*Commencement Date:* 25.6.96: s. 2  
*Current State:* All of Act in operation

### **Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Sustainable Energy Authority Victoria Act 1990**

### **Renewable Energy Authority Victoria (Amendment) Act 2000, No. 13/2000**

*Assent Date:* 18.4.00  
*Commencement Date:* 1.7.00: s. 2  
*Current State:* All of Act in operation

### **Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 198) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **Sustainable Energy Authority Victoria Act 1990**

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*Sustainable Energy Authority Victoria Act 1990*  
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**Endnotes**

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**3. Explanatory Details**

No entries at date of publication.