

South Australia

# **Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Act 2007**

An Act to amend the *Australian Energy Market Commission Establishment Act 2004*.

---

## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### **Part 2—Amendment of *Australian Energy Market Commission Establishment Act 2004***

- 4 Insertion of heading
- 5 Amendment of section 3—Interpretation
- 6 Insertion of heading
- 7 Amendment of section 6—Functions
- 8 Substitution of section 18
  - 18 Immunity
- 9 Amendment of section 26—Accounts and audit
- 10 Amendment of section 27—Annual report
- 11 Insertion of Parts 3, 4 and 5

### **Part 3—Consumer Advocacy Panel**

#### **Division 1—Establishment and Functions of the Panel**

- 28 Establishment of Panel
- 29 Functions of the Panel
- 30 Objectives
- 31 Independence

#### **Division 2—Membership of Panel**

- 32 Membership of Panel
- 33 Terms and conditions of appointment
- 34 Removal from office
- 35 Vacation of office
- 36 Acting appointments as Chairperson or Panel member

#### **Division 3—The Panel's Executive Director and other staff**

- 37 Executive Director and other staff

#### **Division 4—The Panel's Proceedings**

- 38 Meetings of the Panel
- 39 Disclosure of interest

	Division 5—Immunity
40	Immunity
	Part 4—Panel funding, grants and annual report
41	Annual budget
42	Funding for administrative costs associated with the Panel
43	Grant funding
44	Provision of funding
45	Criteria and guidelines for grant allocation
46	Implementation of determinations of the Panel
47	Annual report
	Part 5—Miscellaneous
48	Certain Acts not to apply
12	Renumbering of section 28—Regulations
	Schedule 1—Transitional provisions
1	Interpretation
2	Membership of Consumer Advocacy Panel
3	Panel to decide certain funding applications
4	Payment of funding balance to AEMC
5	Contracts, etc
6	Initial Panel budget
7	Final reporting requirements associated with Advocacy Panel
8	Criteria and guidelines

---

**The Parliament of South Australia enacts as follows:**

**Part 1—Preliminary**

**1—Short title**

This Act may be cited as the *Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Act 2007*.

**2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

**3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

**Part 2—Amendment of *Australian Energy Market Commission Establishment Act 2004***

**4—Insertion of heading**

Before section 1 insert:

**Part 1—Preliminary**

## 5—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *Chairperson*—delete the definition and substitute:

*Chairperson* means (according to context)—

  - (a) the Commissioner appointed to be Chairperson of the AEMC under section 12;
  - (b) the Panel member appointed to be Chairperson of the Panel under section 32;
- (2) Section 3(1), definition of *National Electricity Code*—delete the definition
- (3) Section 3(1)—after the definition of *National Electricity Regulations* insert:

*National Electricity Rules* means the National Electricity Rules as defined in section 2 of the National Electricity Law;
- (4) Section 3(1), definition of *National Energy Law*, paragraph (d)—delete the paragraph and substitute:

(d) the National Electricity Rules; or
- (5) Section 3(1),—after the definition of *National Third Party Access Code for Natural Gas Pipeline Systems* insert:

*natural gas* has the same meaning as in a Gas Pipelines Access Application Act;

*Panel* means the Consumer Advocacy Panel established under section 28;

*Panel member* means the Chairperson or another member appointed to the Panel under section 32;

*small to medium consumer*—

  - (a) of electricity—means a consumer whose annual consumption of electricity does not exceed a level (expressed in megawatt hours) fixed by regulation for the purposes of this definition;
  - (b) of natural gas—means a consumer whose annual consumption of natural gas does not exceed a level (expressed in terajoules) fixed by regulation for the purposes of this definition.

## 6—Insertion of heading

After section 4 insert:

### **Part 2—Australian Energy Market Commission**

## 7—Amendment of section 6—Functions

Section 6—after paragraph (b) insert:

- (c) other functions conferred on the AEMC under this or any other Act or any other law;
- (d) other functions that are reasonably incidental to any of the foregoing.

## **8—Substitution of section 18**

Section 18—delete the section and substitute:

### **18—Immunity**

- (1) No personal liability attaches to a Commissioner or a member of the staff of the AEMC for an act or omission in good faith in the performance or exercise, or purported performance or exercise, of a function or power associated with the activities of the AEMC under this Act.
- (2) A liability that would, but for subsection (1), lie against a person lies instead against the AEMC.

## **9—Amendment of section 26—Accounts and audit**

(1) Section 26—after subsection (1) insert:

- (1a) The accounts must include a proper record of payments into, and out of, the account established for the purposes of Part 4.

(2) Section 26(2)—after "the AEMC" insert:

and the account established for the purposes of Part 4

## **10—Amendment of section 27—Annual report**

Section 27—after subsection (1) insert:

- (1a) The AEMC must include as part of its report the separate report of the Panel made to it for the relevant financial year under Part 4.

## **11—Insertion of Parts 3, 4 and 5**

After section 27 insert:

### **Part 3—Consumer Advocacy Panel**

#### **Division 1—Establishment and Functions of the Panel**

##### **28—Establishment of Panel**

The *Consumer Advocacy Panel* is established.

##### **29—Functions of the Panel**

- (1) The Panel has the following functions:
  - (a) to identify areas of research that would be of benefit to consumers of electricity or natural gas (or both);
  - (b) to develop, and submit for the approval of the MCE, guidelines for the allocation of grants for consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both);

- (c) to prepare, and submit for the approval of the MCE, annual budgets for the allocation of grants for consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both);
  - (d) to determine (subject to the approved guidelines and the approved budget) how grants for consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both) are to be allocated;
  - (e) to prepare, and submit for the approval of the MCE, guidelines for the assistance of applicants for grants for consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both);
  - (f) to publish on the Panel's website and in other appropriate ways the results of research supported by a grant under Part 4 and other research of interest to consumers of electricity or natural gas (or both);
  - (g) to perform other functions conferred on the Panel by the National Energy Laws or the Jurisdictional Energy Laws or by this or any other Act or law;
  - (h) to perform any other function that is reasonably incidental to any of the foregoing.
- (2) The Panel may, in performing its functions with respect to the allocation of grants—
- (a) initiate its own research projects to be funded through the provision of grants;
  - (b) invite or accept applications for grants from other persons or bodies.
- (3) The Panel may perform its functions and exercise its powers in and outside the State.

### **30—Objectives**

In performing its functions—

- (a) the Panel must have regard to any relevant objectives set out in a National Energy Law; and
- (b) the Panel must seek to promote the interests of all consumers of electricity or natural gas while paying particular regard to benefiting small to medium consumers of electricity or natural gas.

### **31—Independence**

Subject to this Act, the Panel is not subject to direction by the AEMC or the MCE in the performance of its functions.

## Division 2—Membership of Panel

### 32—Membership of Panel

- (1) The Panel is to consist of a Chairperson and 4 other members appointed by the Minister.
- (2) The Chairperson and the other Panel members must be persons who are recommended for appointment as such by the MCE on the basis that together they have knowledge, experience or abilities of the following kinds:
  - (a) knowledge of the energy sector;
  - (b) an ability to assess funding applications against specified criteria;
  - (c) experience in public interest advocacy;
  - (d) an ability to assess proposals for energy sector research that would benefit consumers of electricity or natural gas.
- (3) A person is not eligible for appointment to the Panel unless the person has made a statutory declaration disclosing to the AEMC and the MCE interests that—
  - (a) conflict, or could conflict, with the Panel member's duty as such; or
  - (b) would be reasonably perceived as being interests of a kind that would create, or could lead to, such a conflict.
- (4) Before the MCE recommends a person for appointment to a vacant position in the membership of the Panel—
  - (a) the AEMC must, by advertisement in a newspaper circulating generally throughout Australia—
    - (i) call for applications from persons who may be interested in appointment to the vacant position; and
    - (ii) fix a date (the *cut-off date*) by which applications are to be submitted to the AEMC; and
  - (b) the AEMC must provide the MCE with a list of the applicants who submitted applications by the cut-off date and a short-list of applicants whom the AEMC would recommend for the appointment; and
  - (c) the MCE must consider the short-listed applicants; and
  - (d) the person to be appointed must have made the statutory declaration required under subsection (3).
- (5) The MCE is not, however, limited to the short-listed applicants in making recommendations for appointment to the Panel.

- (6) An act or proceeding of the Panel is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

### **33—Terms and conditions of appointment**

- (1) A Panel member will be appointed—
- (a) for a term (not exceeding 4 years) specified in the instrument of appointment; and
  - (b) on conditions (including conditions as to remuneration) specified in the instrument of appointment.
- (2) A Panel member's term and conditions of appointment are to be fixed in accordance with a resolution of the MCE.
- (3) It will, however, be a condition of appointment that the Panel member remain independent (to the satisfaction of the MCE) of—
- (a) the regulatory authorities exercising functions or powers under the National Energy Laws; and
  - (b) businesses engaged in the industries regulated under the National Energy Laws; and
  - (c) bodies prescribed by regulation for the purposes of this paragraph.

### **34—Removal from office**

- (1) The Minister must, if the MCE so resolves, remove a Panel member from office for—
- (a) breach of, or non-compliance with, a condition of appointment; or
  - (b) misconduct; or
  - (c) failure or incapacity to carry out official functions satisfactorily.
- (2) If the AEMC has reason to believe that material grounds for removal of a Panel member exist, the AEMC must bring the matter to the attention of the MCE.

### **35—Vacation of office**

- (1) The office of a Panel member becomes vacant if the member—
- (a) dies; or
  - (b) completes a term of office and is not re-appointed; or
  - (c) resigns by written notice to the Minister; or
  - (d) is removed from office under section 34.
- (2) On the office of a Panel member becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

### **36—Acting appointments as Chairperson or Panel member**

- (1) The AEMC may—
  - (a) appoint a Panel member to act in the office of the Chairperson during any period for which the Chairperson is unable to perform official functions or the office of the Chairperson is vacant; or
  - (b) appoint a person to act in the office of a Panel member during any period for which the member is unable to perform official functions, is acting in the office of the Chairperson, or the office is vacant.
- (2) A person appointed as acting Chairperson has, while acting in the office of the Chairperson, all the functions and powers of the Chairperson and a person appointed as an acting Panel member has, while acting as such, all the functions and powers of a Panel member.
- (3) If—
  - (a) the office of the Chairperson or a Panel member is vacant; and
  - (b) a person is appointed under this section to act in the vacant office,

the acting appointment will be for a period ending when the office is filled by an ordinary appointment or for a period of 6 months (whichever ends first).
- (4) The conditions of appointment of an acting Chairperson or acting Panel member will be as determined by the AEMC subject to relevant guidelines (if any) issued by the MCE.
- (5) An act or proceeding of the Panel is not invalid by reason only of a defect in an appointment under this section or the fact that a person appointed under this section acts in the office concerned when the circumstances for so acting have not yet arisen or have ceased to exist.

### **Division 3—The Panel's Executive Director and other staff**

#### **37—Executive Director and other staff**

- (1) There is to be an Executive Director of the Panel.
- (2) The Panel is to have such other staff as are reasonably necessary for the effective performance of its functions.
- (3) The Executive Director is to be appointed by agreement between the AEMC and the Panel on conditions determined by agreement between the AEMC and the Panel.
- (4) The other staff are to be appointed by the AEMC, on conditions determined by the AEMC, after consultation with the Panel.



- (5) The Executive Director and other staff of the Panel are to be employed by the AEMC and are to be subject to the control and direction of the AEMC, but not so as to allow a direction of the AEMC to derogate from the independence of the Panel in the performance of its functions.
- (6) The AEMC cannot remove the Executive Director from office unless the Panel agrees.
- (7) The AEMC cannot remove any other staff of the Panel unless the AEMC has first consulted with the Panel.

## **Division 4—The Panel's Proceedings**

### **38—Meetings of the Panel**

- (1) The Chairperson may convene as many meetings of the Panel as he or she considers necessary for the efficient conduct of its affairs.
- (2) The Chairperson must convene a meeting of the Panel if requested to do so in writing signed by the other members.
- (3) The Chairperson must preside at a meeting of the Panel.
- (4) A quorum of the Panel consists of the Chairperson and 2 other members.
- (5) A decision carried by at least 3 votes cast by members present at a meeting of the Panel is a decision of the Panel.
- (6) Each member present at a meeting of the Panel has 1 vote on a matter arising for decision and, if the votes are equal, the Chairperson may exercise a casting vote.
- (7) If the Panel so determines, a telephone, video or other form of conference between members of the Panel will, for the purposes of this section, be taken to be a meeting of the Panel at which the participating members are present.
- (8) The Panel must have accurate minutes kept of its meetings.
- (9) To the extent the Panel's procedure is not prescribed by provisions of this Act (or the regulations), the Panel may regulate its own procedure.

### **39—Disclosure of interest**

- (1) If—
  - (a) a Panel member has a direct or indirect interest in a matter under consideration, or about to be considered, by the Panel; and
  - (b) the interest could conflict with the Panel member's duty,the Panel member must, as soon as practicable, disclose the interest at a meeting of the Panel.

- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting at which the disclosure is made.
- (3) A Panel member who discloses a potential conflict of interest in relation to a matter under this section must not, unless the Panel otherwise determines, take part in any deliberations or decision of the Panel in relation to the matter.

## **Division 5—Immunity**

### **40—Immunity**

- (1) No personal liability attaches to a Panel member or a member of the staff of the Panel for an act or omission in good faith in the performance or exercise, or purported performance or exercise, of a function or power associated with the activities of the Panel.
- (2) A liability that would, but for subsection (1), lie against a person lies instead against the AEMC.

## **Part 4—Panel funding, grants and annual report**

### **41—Annual budget**

- (1) The Panel must prepare, and submit for the approval of the MCE, budgets for—
  - (a) administrative costs associated with the work of the Panel, including the remuneration of Panel members and the costs of employing its staff; and
  - (b) the allocation of available funding.
- (2) A budget is to be prepared for each financial year and is to be submitted for the approval of the MCE by 31 October in the year preceding the financial year to which the budget relates.
- (3) The Panel must furnish a copy of its proposed budget to the AEMC at the same time as it submits that budget to the MCE under subsection (2).
- (4) The part of a budget prepared under subsection (1)(a) must deal with the allocation of administrative costs (in the form of proposals or projections) between—
  - (a) costs relating to the performance of the Panel's functions relevant to consumers of electricity; and
  - (b) costs relating to the performance of the Panel's functions relevant to consumers of natural gas; and
  - (c) costs relating to the performance of the Panel's functions relevant to both consumers of electricity and consumers of natural gas.

- (5) The part of a budget prepared under subsection (1)(b) must deal with the allocation of grants (in the form of proposals or projections) between—
- (a) consumer advocacy projects for the benefit of consumers of electricity; and
  - (b) research projects for the benefit of consumers of electricity; and
  - (c) consumer advocacy projects for the benefit of consumers of natural gas; and
  - (d) research projects for the benefit of consumers of natural gas; and
  - (e) projects in research or consumer advocacy for the joint benefit of consumers of electricity and consumers of natural gas.
- (6) The Panel must, in preparing a budget—
- (a) seek to maximise the amount of funding available for the allocation of grants by keeping administrative costs associated with the work of the Panel to a minimum; and
  - (b) ensure that money that is proposed to be made available for research projects initiated by the Panel does not exceed 25% of the Panel's total budget prepared under subsection (1)(b); and
  - (c) clearly distinguish between—
    - (i) money that is proposed to be made available for research projects initiated by the Panel; and
    - (ii) money that is proposed to be made available for research projects put forward by other persons or bodies.
- (7) The Panel must, in preparing a budget, undertake consultations in accordance with the regulations.
- (8) The MCE may approve the budget with or without amendment.

#### **42—Funding for administrative costs associated with the Panel**

The AEMC and NEMMCO are to be responsible for meeting all administrative costs associated with the work of the Panel, as set out in the approved budget, on the basis that—

- (a) the AEMC will be responsible for such costs relating to the performance of functions relevant to consumers of natural gas; and
- (b) NEMMCO will be responsible for such costs relating to the performance of functions relevant to consumers of electricity; and

- (c) both bodies will be jointly responsible for such costs relating to the performance of functions relevant to both consumers of electricity and consumers of natural gas (on the basis that the budget will specify the division of costs between the 2 bodies).

#### **43—Grant funding**

The AEMC and NEMMCO are to be responsible for meeting the grant funding requirements of the Panel, as set out in the approved budget, on the basis that—

- (a) the AEMC will be responsible for grant funding of consumer advocacy and research projects for the benefit of consumers of natural gas; and
- (b) NEMMCO will be responsible for grant funding of consumer advocacy and research projects for the benefit of consumers of electricity; and
- (c) both bodies will be jointly responsible for such costs relating to grant funding of projects in research or consumer advocacy for the joint benefit of consumers of electricity and consumers of natural gas (on the basis that the budget will specify the division of costs between the 2 bodies).

#### **44—Provision of funding**

- (1) The amounts to be provided by NEMMCO and the AEMC under this Part are to be made available under a scheme agreed between NEMMCO, the AEMC and the Panel or, in default of an agreement, on a quarterly basis in advance.
- (2) Any money provided under subsection (1)—
  - (a) must be held by the AEMC in a separate account; and
  - (b) may be paid by the AEMC to meet the administrative costs associated with the work of the Panel, and for the making of grants, in accordance with the provisions of this Part.

#### **45—Criteria and guidelines for grant allocation**

- (1) The criteria for grant allocation are to be determined by the MCE and promulgated in the form of regulations under this Act.
- (2) The Panel is responsible for developing, in consultation with the AEMC and other interested stakeholders, guidelines for grant allocation that are consistent with the MCE's criteria.
- (3) The guidelines are to be submitted for the approval of the MCE.
- (4) The MCE may approve the guidelines with or without amendment.
- (5) The criteria and approved guidelines for grant allocation are to be published on the Panel's website.

#### **46—Implementation of determinations of the Panel**

- (1) The AEMC must, as directed by the Panel, make grants towards consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both).
- (2) A direction under this section must be consistent with—
  - (a) the approved budget; and
  - (b) the MCE's criteria for grant allocation; and
  - (c) the approved guidelines (if any) for grant allocation.
- (3) The Panel must, in providing a direction under this section, certify compliance with subsection (2).
- (4) The terms and conditions on which a grant is to be made are to be as determined by the Panel (after taking into account any relevant criteria for grant allocation).
- (5) The conditions may include, for example—
  - (a) that the person to whom the grant is made must ensure that the application of the funds is audited by an independent person;
  - (b) that the person to whom the grant is made must provide a report or reports on the activities undertaken or outcomes achieved on account of work undertaken pursuant to the grant.
- (6) The Panel may, in operating under its budget during the course of a financial year, make adjustments between allocations under section 41(5), but not so as to breach the limit on projects initiated by the Panel under section 41(6)(b) or to alter responsibility for funding between the AEMC and NEMMCO under section 42.

#### **47—Annual report**

- (1) The Panel must, within 14 days after the end of each financial year, submit to the AEMC a draft report—
  - (a) on the grants made for projects for consumer advocacy or research during the financial year, distinguishing between—
    - (i) each form of project identified under section 41(5); and
    - (ii) the 2 categories of projects under section 41(6)(c); and
  - (b) on the activities undertaken or the outcomes achieved during the financial year by projects for consumer advocacy or research supported by grants made during the financial year or earlier; and
  - (c) generally on the work of the Panel during the financial year.

- (2) The draft report must conform with any requirements imposed by regulation.
- (3) The Panel must—
  - (a) consider any comments made by the AEMC on the draft report within 28 days after submission of the draft report; and
  - (b) make any revisions of the draft report the Panel considers appropriate in the light of those comments; and
  - (c) submit a final report to the AEMC within 2 months after the end of the financial year to which the report relates.
- (4) The Panel's final report is to be included as part of the AEMC's report for the relevant financial year.
- (5) The Panel's final report for each financial year is to be published on the Panel's website within a reasonable time after the AEMC's report is laid before both Houses of Parliament under section 27.

## **Part 5—Miscellaneous**

### **48—Certain Acts not to apply**

- (1) The *Public Sector Management Act 1995* does not apply to or in relation to—
  - (a) the AEMC; or
  - (b) a Commissioner; or
  - (c) the chief executive or other staff of the AEMC; or
  - (d) the Panel; or
  - (e) a Panel member; or
  - (f) the Executive Director or other staff of the Panel.
- (2) The *State Procurement Act 2004* does not apply to or in relation to—
  - (a) the AEMC or its operations or activities; or
  - (b) the Panel or its operations or activities.

### **12—Renumbering of section 28—Regulations**

Section 28—renumber as section 49 (to be included as part of Part 5)

## **Schedule 1—Transitional provisions**

### **1—Interpretation**

- (1) Terms used in this Schedule that are defined in the *Australian Energy Market Commission Establishment Act 2004* have the same respective meanings as in that Act.

- (2) In this Schedule—

*Advocacy Panel* means the Advocacy Panel under clause 8.10 of the National Electricity Rules, as in force immediately before the commencement of this clause.

## **2—Membership of Consumer Advocacy Panel**

- (1) Subject to subclause (3), the person who was Chairperson of the Advocacy Panel immediately before the commencement of this subclause will be taken to have been appointed as the Chairperson of the Panel on the same terms and conditions as to remuneration and other matters as were specified in the instrument of the person's appointment as Chairperson of the Advocacy Panel.
- (2) Subject to subclause (3), a person who was a member (other than the Chairperson) of the Advocacy Panel immediately before the commencement of this subclause will be taken to have been appointed as a member of the Panel on the same terms and conditions as to remuneration and other matters as were specified in the instrument of the person's appointment as a member of the Advocacy Panel.
- (3) An appointment under this clause will be for an interim term that expires in accordance with a determination of the Minister responsible for the administration of the *Australian Energy Market Commission Establishment Act 2004* (and the procedures to appoint Panel members under the *Australian Energy Market Commission Establishment Act 2004* may be commenced at any time after the commencement of this Act in accordance with a timetable determined by the MCE).

## **3—Panel to decide certain funding applications**

- (1) This clause applies to an application for funding lodged with the Advocacy Panel under the National Electricity Rules and not determined by the Advocacy Panel immediately before the commencement of this clause.
- (2) The Panel must determine an application to which this clause applies and may, where appropriate, give a direction for the making of a grant by the AEMC to the applicant as if the applicant were a successful applicant for a grant under Part 4 of the *Australian Energy Market Commission Establishment Act 2004* (as enacted by this Act).
- (3) The Panel must, in acting under subclause (2), apply any criteria or guidelines applying in relation to the application at the time the application was made.

## **4—Payment of funding balance to AEMC**

- (1) This clause applies to any amount being held for the purposes of the Advocacy Panel immediately before the commencement of this clause from the money provided to the Advocacy Panel for the approved Advocacy Panel funding requirements.
- (2) The amount to which this clause applies must be paid to the AEMC and placed by the AEMC in a separate account in accordance with Part 4 of the *Australian Energy Market Commission Establishment Act 2004* (as enacted by this Act).

## **5—Contracts, etc**

- (1) All rights and liabilities held by or on behalf of the Advocacy Panel are transferred to the AEMC.

- (2) The transfer of rights and liabilities under this clause operates by force of this clause and despite the provisions of any other law.
- (3) All references to the Advocacy Panel in an instrument or agreement that gives rise to or evidences a right or liability under subclause (1) will have effect as if it were a reference to the AEMC.

## **6—Initial Panel budget**

- (1) The Panel may adopt a budget that has been prepared by the Advocacy Panel and approved under the National Electricity Rules as its first budget under the *Australian Energy Market Commission Establishment Act 2004* (subject to making any amendments under subclause (2)).
- (2) The Panel may, within 3 months after adopting its first budget under subclause (1), submit an amended budget for the balance of the financial year to the MCE for its approval.
- (3) A budget adopted by the Panel under subclause (1) or approved by the MCE under subclause (2) will be taken to be an approved budget under Part 4 of the *Australian Energy Market Commission Establishment Act 2004* (as enacted by this Act).
- (4) In addition, the MCE may approve a budget under this subclause that may be taken to be an approved budget under Part 4 of the *Australian Energy Market Commission Establishment Act 2004* (as enacted by this Act) for the financial year next following the financial year for which the first budget under subclauses (1) and (2) applies.

## **7—Final reporting requirements associated with Advocacy Panel**

- (1) The Panel must include in its first annual report under Part 4 of the *Australian Energy Market Commission Establishment Act 2004* (as enacted by this Act) the information (including audited financial statements of the Advocacy Panel) that the Advocacy Panel would have been required to include in an annual report under clause 8.10.7 of the National Electricity Rules (as in force immediately before the commencement of this clause) had the Advocacy Panel not been dissolved on account of the commencement of this Act (and despite the fact that the reporting periods for the 2 entities are different).
- (2) An audit of the last financial statements of the Advocacy Panel must be undertaken in accordance with any requirements of the AEMC.
- (3) The persons who, immediately before the commencement of this clause, are the members of the Advocacy Panel must ensure that all information in the possession of the Advocacy Panel that is necessary or convenient to the operation of subclauses (1) and (2) is kept available for the purposes of those subclauses.

## **8—Criteria and guidelines**

Any criteria or guidelines for grant allocations made by the Advocacy Panel applying immediately before the commencement of this clause will continue to apply for the purposes of Part 4 of the *Australian Energy Market Commission Establishment Act 2004* (as enacted by this Act) until criteria and guidelines are established under that Part.