

2019-2020

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**AUSTRALIAN SPORTS COMMISSION AMENDMENT (ENSURING A LEVEL
PLAYING FIELD) BILL 2020**

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator Janet Rice)

AUSTRALIAN SPORTS COMMISSION AMENDMENT (ENSURING A LEVEL PLAYING FIELD) BILL 2020

OUTLINE

The *Australian Sports Commission Amendment (Ensuring a Level Playing Field) Bill 2020* provides for the Australian Sports Commission (‘the Commission’) to fund applications that were recommended to the Minister for the Sports by the Commission but not funded under the Community Sports Infrastructure Grants program.

The Community Sport Infrastructure Grant Program was established in 2018, administered by the Commission. In an audit published in January 2020, the Australian National Audit Office concluded that while “Sport Australia’s assessment of applications was largely in accordance with the published program guidelines”, the Minister’s for Sport’s office “commenced its own assessment process to identify which applications should be awarded funding”. This included the use of a spreadsheet which identified ‘marginal’ and ‘targeted’ electorates. A Senate Select Committee on Administration of Sports Grants was established on 5 February 2020 to inquire into the “administration and award of funding” under the program, and any related matters or programs.

On 11 March 2020, the World Health Organization characterized COVID-19 as a pandemic. Its impact on Australia is unprecedented, including its health and economic impacts, and on community sports. More than 900 public swimming pools, 2,400 soccer clubs and 608 gymnastics centres have been closed due to the crisis. These closures are necessary and appropriate but will, in the long term, have an impact on community sport participation. Across the country, job losses have left people and communities facing enormous hardship. Commonwealth investment in community sport infrastructure is an important opportunity to quickly provide funds that can contribute to community recovery, and support community sports.

This Bill would ensure that all applicants who were assessed and recommended by the Commission, but did not receive funding under the Minister’s decision making process, will be able to receive funds up to the value of uncompleted work. Importantly, this Bill provides that the Commission will undertake the decision making process, independent of the parallel process by the Minister based on electoral considerations.

NOTES ON CLAUSES

Clause 1: Short Title

1. Clause 1 is a formal provision specifying the short title of the Bill.

Clause 2: Commencement

2. This clause provides for the commencement of the Act on the day after it receives Royal Assent.

Clause 3: Schedules

3. Each Act specified in a Schedule to this Act is amended or repealed as is set out in the applicable items in the Schedule. Any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Community Sport Infrastructure Grants

Australian Sports Commission Act 1989

4. Currently, there are no specific provisions in the *Australian Sports Commission Act 1989* in relation to the Community Sport Infrastructure Grant Program. This Bill will empower the Commission to fund projects that were recommended to but not funded by the Minister, and ensure that decisions are made transparently (with clear information about why decisions are made), while also ensuring they are also independent from the parallel process run by the Minister for Sport.

Item 1 - Section 57AA

5. Item 1 inserts Section 57AA, which provides the basis for further funding to be delivered under the Community Sport Infrastructure Grant Program.

Subsection 57AA(1)

6. Subsection (1) inserts a definition for ‘eligibility criteria’, by reference to the *Community Sport Infrastructure Grant Program - Program Guidelines August 2018*. It also inserts a definition of ‘unsuccessful CSIG applicant’, as a potential recipient whose application was endorsed by the Commission, but whose funding was not approved by the Minister for Sport.

Subsections 57AA(2)-(3)

7. Subsection (2) enables Sport Australia to evaluate whether, at the date of commencement, applicants are still eligible for this new round of funding. Subsection (3) ensures that applicants who commenced construction after being informed they were ineligible are still eligible for this new round of funding.

Subsections 57AA(4)-(6)

8. Subsection (4) specifies that Sport Australia must decide a grant amount, while subsection (5) specifies that the amount must not be more than the funds required to complete the project if construction has already commenced. Subsection (6) empowers Sport Australia to require information from applicants in order to complete this process.

Subsection 57AA(7)

9. Subsection (7) specifies that if Sport Australia does not grant funds to an endorsed recipient, it must give the applicant written reasons for the decision.

Subsection 57AA(8)

10. Subsection (8) ensures that Sport Australia makes decisions free from a parallel process conducted by the Minister for Sport.

Subsections 57AA(9-12)

11. Payments to unsuccessful applicants can be made via state and territory governments (subsection 9), including additional funding for relevant administrative costs (subsection 10).

12. These payments can be specified in determinations which are not disallowable (subsection (12)), but which must specify each project and amount (subsection 11).

Subsections 57AA(14-17)

13. Payments to states and territories can only be made on the conditions that states and territories pass on the appropriate amounts in full to recipients (subsection 13) and repay any amounts where appropriate (subsections 14-17).

Item 2 - Subsection 43(3)

14. This item confirms that payments made as a result of this Bill cannot be made until Parliament has made an appropriation for that purpose.

Statement of Compatibility with Human Rights

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

Australian Sports Commission Amendment (Ensuring a Level Playing Field) Bill 2020

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Australian Sports Commission Amendment (Ensuring a Level Playing Field) Bill 2020 provides for the Australian Sports Commission (‘the Commission’) to fund applications that were recommended to the Minister for the Sports by the Commission but not funded under the Community Sports Infrastructure Grants program.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms.

Conclusion

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

Senator Janet Rice