

2016-2017-2018

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Coal-Fired Power Funding Prohibition Bill 2018

EXPLANATORY MEMORANDUM

and

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Circulated by authority of

Adam Bandt MP

Coal-fired Power Funding Prohibition Act 2018

OUTLINE

This Bill will prohibit the Commonwealth or an associated Commonwealth body from providing financial assistance to coal-fired power plants in a number of respects.

A primary aim of the Bill is to assist in the reduction of Australia's greenhouse gas emissions by preventing the Commonwealth from actively assisting in the construction of new coal-fired power stations, extending the life of existing coal-fired power stations or helping purchase new coal-fired power stations.

The Bill will also protect the Commonwealth and the Australian taxpayer from unnecessary exposure to the significant financial risk associated with providing financial support to potentially stranded assets. It also protects from exposure associated with underwriting the 'carbon risk of new coal-fired power generation, which may be significant if a future government takes steps to limit greenhouse gas emissions.

Upon commencement of this Bill, the Commonwealth must not provide financial assistance for the building of, refurbishment, or purchase of coal-fired power stations. This includes the provision of indirect assistance, such as through the underwriting or guarantee of someone else's financial obligations. Without limiting the kind of assistance prohibited by the bill, the following would be prohibited:

- Direct payments
- Loans
- Underwriting of agreements, including between purchasers of power and the builders or operators of coal-fired power generation
- The issuing of government bonds
- Contracts for difference
- Guarantees of a 'floor price'
- Equity in a company
- Capacity payments
- Indemnity from carbon risk

Exemptions are provided to permit the Commonwealth to exercise its usual regulatory processes, to provide support to workers and communities affected by power station closures, to fund research related to coal-fired power stations generally or to manage the closure of coal-fired power stations

FINANCIAL IMPACT

This Bill would have no financial impact.

NOTES ON CLAUSES

Clause 1: Short Title

1. This clause provides for the Act to be cited as the *Coal-Fired Power Funding Prohibition Act 2018*.

Clause 2: Commencement

2. This clause provides for the whole of this Act to commence the day after it receives Royal Assent.

Clause 4: Definitions

This section defines *authority of the Commonwealth* as an entity or company under the *Public Governance, Performance and Accountability Act 2013* and any other body (whether incorporated or not) established for a public purpose under the law of the Commonwealth or where the Commonwealth has a controlling interest.

Part 2—Prohibition on Commonwealth support for coalfired power stations

Item 1: Section 5 Subsection 1 (a) and (b)

This section prohibits the Commonwealth or an authority of the Commonwealth from providing financial or other support for the purpose of building or refurbishment of a coalfired power station. The Commonwealth is also prohibited from purchasing or assisting in the purchase or transfer of ownership of a coalfired power station.

‘Support’ includes those kinds of matter outlined in the Government’s *Underwriting New Generation Investments Consultation* paper, as well as other kinds of support, including:

- Direct payments
- Loans
- Underwriting of agreements, including between purchasers of power and the builders or operators of coal-fired power generation
- The issuing of government bonds
- Contracts for difference
- Guarantees of a ‘floor price’

- Equity in a company
- Capacity payments
- Indemnity from carbon risk

Item 2: Subsection 2 (a) and (b)

The Commonwealth is not prohibited from exercising its usual regulatory functions with respect to coal-fired power stations.

Item 3: Subsection 3 (a) and (b)

The Commonwealth is not prohibited from providing **transitional assistance** to workers affected, or who may be affected by the closure of coal-fired power stations. The Commonwealth may also fund **research** by an approved research institute, provided that the research relates to coal-fired power stations generally, and not a particular coal-fired power station.

Item 4: Subsection 4

The Commonwealth may assist in **managed closures** of coal-fired power station.

Item 5: Subsection 5

Subsection 1 does not apply to the extent (if any) where the operation of this Act would result in the **acquisition of property**, within the meaning under section 51(xxxi) of the Constitution, from a person otherwise than on just terms.

Item 6:

Subsection (1) has effect despite other laws the Commonwealth (whether passed, or made before, or after the commencement of this section) unless the law expressly provides otherwise.

Item 7: Section 6 Section

The Commonwealth will only be limited by section 5 of this Act and this Act does not, by implication, limit that power to any other extent.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Coal-Fired Power Funding Prohibition Bill 2018

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.

HUMAN RIGHTS IMPLICATIONS

This Bill does not engage any of the applicable rights or freedoms, other than to promote the safety and wellbeing of people by helping to ensure a safe climate.

Conclusion

This bill is compatible with human rights because it does not otherwise raise any human rights issues.

Adam Bandt MP