

# DRAFT FOR CONSULTATION

## **Climate Change (Divestment from Fossil Fuels) Bill**

Member's Bill

### **Explanatory note**

#### **General policy statement**

Climate change is the most challenging issue of our time. How we respond to it will define us and determine what kind of future we leave for our children. We all share a deep ethical responsibility to act to protect our livelihoods and the livelihoods of our children. And in doing so, we can transition our economy to a cleaner, more sustainable future.

Our publicly managed funds – the New Zealand Superannuation Fund, the ACC Fund, the Government Superannuation Fund and others – are widely regarded as some of the most ethical sovereign investment funds in the world. They have shown how to make good returns while maintaining some of the highest ethical standards in investment.

A series of studies have now established that only a quarter of known oil, gas, and coal reserves can be burned if rising temperatures are to be kept below 2.0°C. The burning of these already discovered fossil fuels will have catastrophic consequences for the climate and yet oil, gas, and coal producers continue to explore and mine for even more. Global action on the climate will require we leave most discovered fossil fuel reserves in the ground and stop the continued financing of further exploration and mining.

This Bill draws a line in the sand for fossil fuel investment and will direct public fund managers to divest from companies directly involved in the exploration, mining, and production of fossil fuels. These 200 or so companies make up only a small part of the government's overall investments, yet their output represents the single biggest threat to our future. Divestment is supported by the UN, the World Bank, and many of the world's major investment funds.

All companies are exposed to climate risks, so this Bill will also direct public fund managers to begin actively managing and reporting on those risks, requiring them to reduce their portfolio's overall exposure to climate risks going forward.

Capital freed up from divestment can flow into developing the clean energy alternatives we need to prosper and thrive.

### Clause by clause analysis

*Clause 1* contains the Bill's title.

*Clause 2* describes the commencement date.

*Clause 3* sets out the Act's purpose.

*Clause 4* says that the Act binds the Crown.

*Clause 5* defines **public fund** and **fund manager**.

*Clause 6* requires fund managers to identify investments with climate change risks and actively manage those risks.

*Clause 7* requires fund managers to dispose of investments in companies directly involved in the mining and production of fossil fuels and not to invest in them in the future.

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*Dr Russel Norman*

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### **The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Climate Change (Divestment from Fossil Fuels) Act **2015**.
- 2 Commencement**  
This Act comes into force on the day after the date after which it receives the Royal assent.
- 3 Purpose**  
The purpose of this Act is to—

- (a) require fund managers to identify the climate change risks of the fund's investments; and
- (b) require fund managers to actively measure, manage, and report on the fund's exposure to climate change risks; and
- (c) require fund managers to dispose of investments in companies directly involved in the mining and production of fossil fuels; and
- (d) prohibit fund managers from investing in companies directly involved in the mining and production of fossil fuels.

#### **4 Act binds the Crown**

This Act binds the Crown.

#### **5 Meaning of public fund and fund manager**

In this Act, **public fund** means what is described in the left-hand column of the following table and **fund manager** means the person responsible for investing the public fund under the statutory authority described in the other 2 columns—

|                                                                                   |                                                           |             |
|-----------------------------------------------------------------------------------|-----------------------------------------------------------|-------------|
| Money held in a Crown Bank Account or a Departmental Bank Account                 | Public Finance Act 1989                                   | section 65I |
| Money received by the Accident Compensation Corporation in respect of any Account | Accident Compensation Act 2001                            | section 275 |
| New Zealand Superannuation Fund                                                   | New Zealand Superannuation and Retirement Income Act 2001 | section 58  |

|                                   |                                         |             |
|-----------------------------------|-----------------------------------------|-------------|
| Government Superannuation Fund    | Government Superannuation Fund Act 1956 | section 15J |
| Funds of the Lotteries Commission | Gambling Act 2003                       | section 262 |
| Funds of Public Trust             | Public Trust Act 2001                   | section 37  |

**6 Managing investments with climate change risks**

A fund manager must—

- (a) identify the climate change implications of the investments in the fund; and
- (b) actively measure, manage, and report on the fund’s exposure to climate change risks; and
- (c) reduce the fund’s exposure to these risks over time.

**7 Prohibition on continued and future investment in fossil fuels**

- (1) A fund manager must dispose of any investment that the fund has in the mining or production of fossil fuels.
- (2) The fund manager must dispose of the investment—
  - (a) as soon as is practicable; and
  - (b) no later than 5 years after the date on which this Act commences.
- (3) A fund manager must not invest any of the fund in the mining or production of fossil fuels.
- (4) This section prevails over any other enactment that is directly or indirectly inconsistent with it.