

DRAFT FOR CONSULTATION

Prohibition on Investment of Public Funds in Fossil Fuels Bill

Member's Bill

Explanatory note

General policy statement

New Zealanders want to know that the Government is taking action to prevent a climate crisis. But despite strong scientific evidence that we cannot afford to burn all the fossil fuels we have already discovered if we are to limit global warming to 1.5 degrees, public money is still invested in the extraction and production of fossil fuels.

The New Zealand Superannuation Fund has led the world divesting from fossil fuels, but other public funds such as the ACC Fund and the Government Superannuation Fund have not. Successive Governments have not taken action to change this. Global action to avoid a climate crisis requires that we leave most discovered fossil fuel reserves in the ground and stop the continued financing of further exploration and mining. Inaction will lead to our communities facing more extreme and unpredictable weather events, with significant damage to homes, businesses, and wildlife.

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 mining and production of fossil fuels. These companies make up only a small part of the government's overall investments, yet their output represents the single biggest threat to our future. This Bill reduces that threat, helping to ensure a stable climate now and for generations to come.

This Bill also helps Aotearoa New Zealand give effect to its Paris Agreement commitments, specifically to make "finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development."

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause and provides for the Bill to come into force on the day after Royal assent.

Part 1 amends section 275 of the Accident Compensation Act 2001 to prevent the Corporation investing in the mining or production of fossil fuels. *Schedule 1* contains transitional arrangements for investments made prior to the amendment coming into force.

Part 2 amends section 262 of the Gambling Act 2003 to prevent the Lotteries Commission investing in the mining or production of fossil fuels. *Schedule 2* contains transitional arrangements for investments made prior to the amendment coming into force.

Part 3 amends section 15J of the Government Superannuation Fund Act 1956 to prevent the Authority investing in the mining or production of fossil fuels. *Schedule 3* contains transitional arrangements for investments made prior to the amendment coming into force.

Part 4 amends section 58 of the New Zealand Superannuation and Retirement Income Act 2001 to prevent the Guardians investing in the mining or production of fossil fuels. *Schedule 4* contains transitional arrangements for investments made prior to the amendment coming into force.

Part 5 amends section 65I of the Public Finance Act 1989 to prevent the Treasury investing in the mining or production of fossil fuels. *Schedule 5* contains transitional arrangements for investments made prior to the amendment coming into force.

Part 6 amends section 37 of the Public Trust Act 2001 to prevent the Public Trust investing in the mining or production of fossil fuels. *Schedule 6* contains transitional arrangements for investments made prior to the amendment coming into force.

Part 7 amends section 17 of the Venture Capital Fund Act 2019 to prevent the Guardians investing in the mining or production of fossil fuels. *Schedule 7* contains transitional arrangements for investments made prior to the amendment coming into force.

Chlöe Swarbrick

Prohibition on Investment of Public Funds in Fossil Fuels Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Accident Compensation Act 2001

3 Principal Act

This Part amends the Accident Compensation Act 2001 (the **principal Act**).

4 Section 275 amended (Investments)

After section 275(1), insert:

(1A) The Corporation must not invest money under subsection (1) in the mining or production of fossil fuels.

5 Schedule 1AA amended (Transitional, savings, and related provisions)

In Schedule 1AA, after clause 7, insert the **Part 3** set out in **Schedule 1** of this Act.

Part 2

Amendments to Gambling Act 2003

6 Principal Act

This Part amends the Gambling Act 2003 (the **principal Act**).

7 Section 262 amended (Investment of funds)

In section 262, insert as subsection (2):

- (2) The Lotteries Commission must not invest any of its funds in the mining or production of fossil fuels.

8 Schedule 1AA amended (Transitional, savings, and related provisions)

- (1) In Schedule 1AA, replace the cross-heading above clause 1, with:

Part 1
Transitional provisions relating to Gambling Amendment Act (No 2)
2015

- (2) In Schedule 1AA, after clause 4, insert the **Part 2** set out in **Schedule 2** of this Act.

Part 3

Amendments to the Government Superannuation Fund Act 1956

9 Principal Act

This Part amends the Government Superannuation Fund Act 1956 (the **principal Act**).

10 New section 2AA inserted (Transitional, savings, and related provisions)

Before section 2A, insert:

2AA Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

11 Section 15J amended (Investment of Fund)

After section 15J(2), insert:

- (3) The Authority must not invest the Fund in the mining or production of fossil fuels.

12 New Schedule 1AA inserted

Insert the Schedule 1AA set out in **Schedule 3** of this Act as the first schedule to appear after the last section of the principal Act.

Part 4
**Amendments to New Zealand Superannuation and Retirement
Income Act 2001**

13 Principal Act

This Part amends the New Zealand Superannuation and Retirement Income Act 2001 (the **principal Act**).

14 Section 58 amended (Investment of Fund)

After section 58(2), insert:

- (3) The Guardians must not invest the Fund in the mining or production of fossil fuels.

15 Schedule 1AA amended (Transitional, savings, and related provisions)

In Schedule 1AA, after clause 3, insert the **Part 3** set out in **Schedule 4** of this Act.

Part 5
Amendments to the Public Finance Act 1989

16 Principal Act

This Part amends the Public Finance Act 1989 (the **principal Act**).

17 Section 65I amended (Investment of public money)

After section 65I(1), insert:

- (1A) The Treasury must not invest money under subsection (1) in the mining or production of fossil fuels.

18 Schedule 1 amended (Application, savings, and transitional provisions relating to amendments made to Act after 1 January 2013)

In Schedule 1, after clause 10, insert the **Part 4** set out in **Schedule 5** of this Act.

Part 6
Amendments to Public Trust Act 2001

19 Principal Act

This Part amends the Public Trust Act 2001 (the **principal Act**).

20 New section 4A inserted (Transitional, savings, and related provisions)

After section 4, insert:

4A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

21 Section 37 amended (Investment of funds)

In section 37, insert as subsection (2):

- (2) The Public Trust must not invest any funds in the mining or production of fossil fuels.

22 New Schedule 1AA inserted

Insert the Schedule 1AA set out in **Schedule 6** of this Act as the first schedule to appear after the last section of the principal Act.

Part 7**Amendments to Venture Capital Fund Act 2019****23 Principal Act**

This Part amends the Venture Capital Fund Act 2019 (the **principal Act**).

24 Section 17 amended (Guardians must use best-practice investment management)

Replace section 17(2) with:

- (2) However,—
- (a) this section is subject to the directions that the Guardians must give effect to under section 19 to 23; and
 - (b) the Guardians must not invest the VCF under subsection (1) in the mining or production of fossil fuels.

25 Schedule 1 amended (Transitional, savings, and related provisions)

In Schedule 1, after clause 5, insert the **Part 2** set out in **Schedule 7** of this Act.

Schedule 1**New Part 3 inserted into Schedule 1AA of the Accident
Compensation Act 2001**

Part 3

**Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020**

8 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

9 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Corporation before section 275(1A) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 275(1A), the Corporation must dispose of the investment—
 - (a) as soon as is practicable; and
 - (b) no later than 3 years after the commencement date.

Schedule 2

New Part 2 inserted into Schedule 1AA of the Gambling Act 2003

s 8(2)

Part 2

**Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020**

5 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

6 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Lotteries Commission before section 262(2) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 262(2), the Lotteries Commission must dispose of the investment—

- (a) as soon as is practicable; and
- (b) no later than 3 years after the commencement date.

Schedule 3
New Schedule 1AA inserted into Government Superannuation Fund
Act 1956

s 12

Schedule 1AA
Transitional, savings, and related provisions

s 2AA

Part 1
Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020

1 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

2 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Authority before section 15J(3) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 15J(3), the Authority must dispose of the investment—
 - (a) as soon as is practicable; and
 - (b) no later than 3 years after the commencement date.

Schedule 4
New Part 3 inserted into Schedule 1AA of the New Zealand
Superannuation and Retirement Income Act 2001

s 15

Part 3

**Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020**

4 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

5 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Guardians before section 58(3) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 58(3), the Guardians must dispose of the investment—
 - (a) as soon as is practicable; and
 - (b) no later than 3 years after the commencement date.

Schedule 5

New Part 4 inserted into Schedule 1 of the Public Finance Act 1989

s 18

Part 4

**Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020**

11 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

12 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Treasury before section 65I(1A) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 65I(1A), the Treasury must dispose of the investment—

- (a) as soon as is practicable; and
- (b) no later than 3 years after the commencement date.

Schedule 6
New Schedule 1AA inserted into Public Trust Act 2001

s 22

Schedule 1AA
Transitional, savings, and related provisions

s 4A

Part 1
**Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020**

1 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

2 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Public Trust before section 37(2) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 37(2), the Public Trust must dispose of the investment—
 - (a) as soon as is practicable; and
 - (b) no later than 3 years after the commencement date.

Schedule 7
New Part 2 inserted into Schedule 1 of the Venture Capital Act 2019

s 25

Part 2

**Provisions relating to Prohibition on Investment of Public Funds in
Fossil Fuels Act 2020**

6 Interpretation

In this Part,—

amending Act means the Prohibition on Investment of Public Funds in Fossil Fuels Act **2020**

commencement date means the date on which the amending Act comes into force

7 Transitional period for investments entered into before commencement

- (1) This clause applies to any investment entered into by the Guardians before section 17(2)(b) (as inserted by the amending Act) comes into force.
- (2) If an investment is inconsistent with section 17(2)(b), the Guardians must dispose of the investment—
 - (a) as soon as is practicable; and
 - (b) no later than 3 years after the commencement date.