

The Senate

Economics
Legislation Committee

Parliamentary Joint Committee on the
Australia Fund Bill 2018

April 2019

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ISBN 978-1-76010-966-0

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Printed by the Senate Printing Unit, Parliament House, Canberra.

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Chapter 1

Introduction

1.1 On 6 December 2018, the Senate referred the Parliamentary Joint Committee on the Australia Fund Bill 2018 (the bill) to the Economics Legislation Committee (the committee) for inquiry and report by 3 April 2019.¹

Overview of the bill

1.2 On 14 November 2018, Senator Brian Burston introduced the bill in the Senate. The bill seeks to:

- establish a Parliamentary Joint Committee on the Australia Fund (the joint committee) to investigate the establishment of an Australia Fund to provide support and reconstruction for rural and manufacturing industries in times of crisis, and review bankruptcy and insolvency laws in relation to businesses in times of crisis;
- provide for the functions, powers and procedures of the committee;
- provides for the tabling of the committee's report; and
- provide that the committee ceases to exist after it presents its final report.

1.3 In his second reading speech, Senator Burston stated:

We all watched with great distress as the reports of drought-affected farmers filtered into our electorate inboxes and onto our televisions. The sight of dying cattle and desperate owners and staff touched all of us deeply. We have also seen fire and flood on a regular basis and endured the consequences of global financial crises.

...

The Parliamentary Joint Committee on the Australia Fund Bill 2018 calls for the creation of a cross-party joint committee to assist in the support and reconstruction of Australian rural and manufacturing industries in times of crisis. The Australia Fund would have the ability to provide emergency and ongoing drought, flood and bushfire relief. It could loan money to businesses, act as a guarantor for loans, capitalise or waive interest, purchase existing bank loans and assume control of relevant property of the business for a specified time. In this way, the fund would be designed to enable businesses to continue operations to earn revenue, employ workers and pay taxes, rather than being prematurely wound up. This would support communities affected by natural disasters for the long term.²

1 *Journals of the Senate*, No. 137, 6 December 2018, p. 4480.

2 Senator Brian Burston, *Senate Hansard*, 26 November 2018, p. 6.

1.4 Division 2, section 8 sets out the proposed functions for the joint committee as follows:

- (a) to investigate whether a body, to be known as the Australia Fund, should be established to support rural and manufacturing industries in Australia so that a business within those industries may continue to operate in times of crisis, and to provide the following kinds of assistance:
 - (i) emergency or ongoing financial relief;
 - (ii) a loan of money to such a business;
 - (iii) act as a guarantor for all or part of a loan or proposed loan to such a business;
 - (iv) purchase all or part of an existing loan to such a business;
 - (v) capitalise or waive interest owed by such a business;
 - (vi) assume control of such a business for a particular period;
 - (vii) grant money to an appropriate industry body;
 - (viii) grant money to such a business for the purpose of purchasing new technology to make it more economically viable and competitive or for the purpose of restructuring it; and
- (b) to assess whether:
 - (i) existing bankruptcy and insolvency laws should be modified or temporarily relaxed for businesses in times of crisis; and
 - (ii) any foreign bankruptcy or insolvency laws should be adopted as laws of the Commonwealth; and
- (c) to report to both Houses of Parliament on its recommendations on the matters mentioned in paragraphs (a) and (b) within 30 days of its final deliberations, and the reasons for those recommendations.

Former Joint Select Committee on the Australia Fund Establishment

1.5 On 23 September 2014, the former Parliamentary Joint Select Committee (the former joint select committee) on the Australia Fund Establishment was established when the House of Representatives agreed to the Senate resolutions establishing the committee. The committee was comprised of six Members and four Senators.

1.6 The former joint select committee concluded its inquiry when it tabled its report on 25 June 2015.³

1.7 The terms of reference for the inquiry were as follows:

- (1) That a joint select committee, to be known as the Joint Select Committee on the Australia Fund Establishment, be established to inquire into and report on:

3 Joint Select Committee on the Australia Fund Establishment, *Report*, June 2015.

The establishment of a fund to support rural and manufacturing industries, with particular reference to:

- (a) the need for a fund to assist rural and manufacturing industries in crisis and support communities affected by natural disasters, including the following assistance:
 - (i) emergency or ongoing financial relief,
 - (ii) a loan to such a business,
 - (iii) act as a guarantor for all or part of a loan or proposed loan to such a business,
 - (iv) purchase all or part of an existing loan to such a business,
 - (v) capitalise or waive interest owed by such a business,
 - (vi) assume control of such a business for a particular period,
 - (vii) grant funds to an appropriate industry body, and
 - (viii) grant funds to such a business for the purpose of purchasing new technology to make it more economically viable and competitive or restructuring it; and
- (b) whether:
 - (i) existing bankruptcy and insolvency laws should be modified or temporarily relaxed for businesses in times of crisis, and
 - (ii) any foreign bankruptcy or insolvency laws should be adopted as laws of the Commonwealth.

(2) That the committee deliver its final report on or before 30 June 2015.⁴

1.8 The former joint select committee did not recommend the establishment of an Australia Fund. The former joint select committee stated:

The inquiry's terms of reference sought responses to a number of issues related to natural disasters and how government can assist during such times. Unfortunately the committee did not receive any submission regarding many of these issues.

For example, the committee did not receive any evidence on how an 'Australia Fund' would be resourced or structured. Likewise, the committee received no evidence that a single fund would assist in filling the gaps in the current provision of support available for economic crisis and natural disasters. With regard to these gaps, the committee welcomes the emphasis on sustainability and self-reliance in the farming sector through concessional loans, but is of the view that more work needs to be done on how best these loans and their eligibility criteria are structured to ensure they provide the most benefit. Nevertheless, the committee supports the

4 Joint Select Committee on the Australia Fund Establishment, *Report*, June 2015, p. v.

expansion of the concessional loan model to the manufacturing sector where access to finance is proving a barrier to sustainability.

...

In the committee's view, targeted and comparable support for businesses is available at both a state and federal level.⁵

Legislative scrutiny

1.9 The Senate Standing Committee for the Scrutiny of Bills made no comment in relation to the bill.⁶ The Parliamentary Joint Committee on Human Rights found that the bill did not raise human rights concerns.⁷

Conduct of the inquiry

1.10 The committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties inviting submissions. The committee received three submissions which are listed at Appendix 1.

1.11 The committee appreciates the efforts of all stakeholders who contributed to the inquiry.

5 Joint Select Committee on the Australia Fund Establishment, *Report*, June 2015, p. 44.

6 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 14 of 2018*, p. 1.

7 Parliamentary Joint Committee on Human Rights, *Report 12 of 2018*, p. 50.

Chapter 2

Views on the bill

2.1 The committee received three submissions to the inquiry. Submitters focussed on the establishment of an Australia Fund.

Support for establishing an Australia Fund

2.2 The bill seeks to establish a Joint Parliamentary Committee to investigate establishing an Australia Fund. The Explanatory Memorandum notes that:

Such a fund would be designed to assist in the support and reconstruction of Australian rural and manufacturing industries in times of crisis, including natural disasters (such as drought, floods and bushfires) or in cases of a world financial crisis or unfair market intervention or manipulation.¹

2.3 Regional Development Australia Barwon South West (RDA BSW) supported the establishment of the Australia Fund to support regional businesses to respond or adjust to economic shocks as a result of crisis events. It explained further:

Australia's regions produce approximately 40 per cent of the national economic output. The Australian Government plays an important role in building resilience and flexibility to support this significant national economic contribution. Whilst regional and rural economies may suffer disproportionately during adverse external shocks, with exacerbated negative effects on employment security, income and living standards, there are also implications for the national trade balance. If, for example, productive capacity is reduced by disaster damage, exports decrease, the trade balance may weaken, and localised inflation may increase.

Historically, the high economic losses inflicted by natural hazards and man-made threats in the recent times together with the expected impacts of future potential events, make resilience against disasters a key policy objective.²

2.4 Regional Development Australia Pilbara (RDA Pilbara) supported the establishment of an Australia Fund noting that although there are existing government programs to designed to assist 'the viability of rural industry...these do not specifically address the needs of businesses or communities in times of crisis.'³

2.5 RDA Pilbara proposed the following measures:

From the perspective of the structure of the Pilbara economy and its cyclical nature the following measures...are strongly supported by RDA Pilbara to reduce the business risks for the SME sector and encourage expansion and diversification:

1 *Explanatory Memorandum*, p. 1.

2 Regional Development Australia Barwon South West, *Submission 2*, p. 4.

3 Regional Development Australia Pilbara, *Submission 1*, p. 14.

- Loan money to businesses, act as a guarantor for loans, capitalise or waive interest, purchase existing bank loans, and assume control of relevant property of the business for a specified time.
- In this way, the Fund would be designed to enable businesses to continue operations to earn revenue, employ workers and pay taxes, rather than be prematurely wound up, and support communities affected by natural disasters, or sharp declines in economic activity as a result of significant commodity price falls.
- Provide funds for industry and/or company restructuring and the acquisition of new technologies to make businesses more economically viable and internationally competitive.
- Review existing bankruptcy and insolvency laws with the aim of introducing legislation designed to assist companies to trade through difficult times, rather than be closed down.
- On the basis of an assessment of the industry and/or businesses, to provide emergency and ongoing drought/flood/bushfire relief for the livestock and agricultural industries in the Pilbara.⁴

2.6 The Australian Local Government Association (ALGA) discussed the need to find the right balance of funding mitigation, relief and recovery if an Australia Fund were to be established. ALGA noted it supported any funding which can assist with the reconstruction of local communities and their industries in times of crisis:

However, ALGA strongly believes in prudent, up-front investment in mitigation measures with the objective of avoiding or minimizing recovery and reconstruction costs of disasters. Increased funding on natural disaster mitigation measures would reduce the call on Commonwealth and State funding for recovery in the longer term. It would also reduce the need to repeatedly rebuild communities following natural disasters.⁵

2.7 ALGA stated further:

Spending more on mitigation however should not be at the expense of reducing relief and recovery support. Even with increased investment in mitigation funding there will still be a need for funding for reconstruction and intervention. Key elements that should be considered in relationship to this funding are the timeliness of funding reaching communities in times of need, and the cost of delivering the funds. These factors need to be appropriately managed so as not to disadvantage communities compared to an alternative system of financial support.⁶

2.8 In its August 2017 report into Australia's general insurance industry the Senate Economics References Committee noted the 2015 Productivity Commission (PC) inquiry into National Disaster Funding Arrangements. In its investigation into

4 Regional Development Australia Pilbara, *Submission 1*, p. 14.

5 Australian Local Government Association, *Submission 3*, p. 2.

6 Australian Local Government Association, *Submission 3*, pp. 3–4.

options to achieve an effective and sustainable balance of natural disaster recovery and mitigation expenditure, the PC recommended, among other things, that:

Australian Government post disaster support to state and territory governments (states) should be reduced, and support for mitigation increased. Greater budget transparency and some provisioning is also needed.

- States need to shoulder a greater share of natural disaster recovery costs to sharpen incentives to manage, mitigate and insure against these risks. The Australian Government should provide a base level of support to states commensurate with relative fiscal capacity and the original 'safety net' objective of disaster recovery funding, with the option for states to purchase 'top up' fiscal support.
- Australian Government mitigation funding to states should increase to \$200 million a year and be matched by the states.
- These reforms would give state and local governments autonomy in how they pursue disaster recovery and mitigation. The reforms should be supported by performance and process based accountability mechanisms that embed good risk management.⁷

2.9 At the time of reporting, the committee noted that:

...the disproportionate spending between mitigation and post-disaster expenditure remains unchanged since the PC's final report. Federal mitigation spending was approximately three per cent of post-disaster expenditure in recent years. The PC noted that 'the reform imperative is greatest for states most exposed to natural disaster risk...'⁸

Committee view

2.10 The committee notes the Senate Economics References Committee observations from its prior inquiry into general insurance, that more needs to be done at the state level to ensure there are greater mitigation strategies put in place by state governments to help deal with natural disasters. The committee also notes that there are a number of programs in existence that are designed to support those suffering the impact of the drought. Further, the committee notes legislation to establish the Future Drought Fund is currently before the Parliament. The Future Drought Fund is intended to provide a secure revenue stream to be used for drought resilience, preparedness and response.⁹

7 Productivity Commission, *Natural Disaster Funding Arrangements—Inquiry Report*, Vol. 1, December 2014, p. 2.

8 Senate Economics References Committee, *Australia's General Insurance Industry: sapping consumers of the will to compare*, 10 August 2017, pp. 72–73.

9 Future Drought Fund Bill 2019, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2F6222%22> (accessed 27 March 2019).

2.11 As noted in chapter 1, the former Parliamentary Joint Select Committee on the Australia Fund Establishment tabled its report on 25 June 2015.¹⁰ The committee considers that establishing a parliamentary inquiry into matters which have been subject to a largely identical inquiry, with essentially identical terms of reference, is not the best way to support Australian communities and industries.

Recommendation 1

2.12 The committee recommends that the Senate not pass the bill.

Senator Jane Hume
Chair

10 Joint Select Committee on the Australia Fund Establishment, *Report*, June 2015.

Additional Comments from Labor Senators

1.1 Labor Senators do not support the Parliamentary Joint Committee on the Australia Fund Bill 2018.

1.2 Labor Senators have previously been on the record expressing concern about the mechanism that is being used here to establish this Parliamentary Committee.¹

1.3 Labor Senators also note that a committee was established in the previous Parliament, issuing a report in June 2015 titled *Joint Select Committee on the Australia Fund Establishment Report*. The committee held three public hearings and received eighteen submissions.

1.4 The intent of the fund, as set out in the explanatory memorandum, is:

...to assist in the support and reconstruction of Australian rural and manufacturing industries in times of crisis, including natural disasters (such as drought, floods and bushfires) or in cases of a world financial crisis or unfair market intervention or manipulation.²

1.5 These issues are of interest to Labor Senators. Regarding the agricultural sector, Labor has stood ready to support meaningful drought assistance and note the current Government's inability to develop a long term drought strategy.

1.6 When it comes to manufacturing, Federal Labor has announced its Advanced Manufacturing Future Fund and has clear energy and climate policies which will reduce long term pressures on electricity prices for our manufacturers. Only Labor has a clear, consistent and modernising vision for Australia's energy future; with cleaner renewable energy, more storage, and a modern transmission network. The Government in contrast has an incoherent, ad-hoc, chaotic approach that has more in common with a marketing strategy than a strategy for affordable, reliable and clean power for Australia.

1.7 When it comes to financial crises and unfair market intervention or manipulation, the contrast between the Government and Labor could not be clearer. The Government never wanted the Banking Royal Commission to happen. They voted against it 26 times. The current Prime Minister Scott Morrison fought against it for 600 days, calling it a 'populist whinge' and a 'reckless distraction'. A Shorten Labor Government will implement 75 recommendations of the Royal Commission in full and stand up for Australians affected by banking misconduct. Labor called for the Royal Commission, Labor fought for the Royal Commission and only Labor can be trusted to implement its recommendations.

1 Senator Deborah O'Neill, *Senate Hansard*, 26 November 2018, p. 8465.

2 *Explanatory Memorandum*, p. 1.

1.8 The best way to address the concerns that Senator Burston has raised in this bill is for the public to elect a Shorten Labor Government.

Senator Chris Ketter
Deputy Chair

Senator Jenny McAllister
Senator for New South Wales

Appendix 1

Submissions

- 1 Regional Development Australia Pilbara
- 2 Regional Development Australia Barwon South West
- 3 Australian Local Government Association

