



New South Wales

Steel Industry Protection Bill 2016

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to ensure, as far as practicable, that all steel used in public works or infrastructure constructed by or on behalf of public authorities is manufactured in Australia.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 3 months after the date of assent to this Act unless commenced sooner by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 specifies the object of the proposed Act.

Clause 5 provides that a public authority must not construct any public works involving the use of more than 2 tonnes of steel (*relevant public works*) unless the steel is manufactured in Australia.

Clause 6 provides that a public authority must not contract with another party who undertakes to construct any relevant public works on behalf of the public authority (a *relevant contract*) unless the contract contains a provision requiring any steel used in the construction of the works to be manufactured in Australia.

Clause 7 provides that any party to a relevant contract who undertakes to construct any relevant public works on behalf of a public authority is required to provide a report to the public authority and the Independent Pricing and Regulatory Tribunal (*IPART*) verifying the quantity and origins of any steel used under the contract.

Clause 8 requires a public authority that constructs any relevant public works or is a party to a relevant contract to ensure, as far as is practicable, that the requirements of the proposed Act are complied with.

Clause 9 requires IPART to prepare an annual report regarding the effectiveness of the proposed Act in achieving its objective.

Clause 10 provides that the proposed Act binds the Crown.

Clause 11 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 12 provides for the review of the proposed Act in 5 years.



New South Wales

Steel Industry Protection Bill 2016

Contents

	Page
1 Name of Act	2
2 Commencement and duration	2
3 Definitions	2
4 Object of Act	3
5 Relevant public works carried out by public authority	3
6 Relevant contracts	3
7 Cumulative steel usage reports	3
8 Obligations of public authorities	4
9 Annual report by IPART	4
10 Act to bind Crown	4
11 Regulations	4
12 Review of Act	4



New South Wales

Steel Industry Protection Bill 2016

No. , 2016

A Bill for

An Act to ensure that Australian steel is used in infrastructure or public works constructed by or on behalf of public authorities.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Steel Industry Protection Act 2016</i> .	3
2 Commencement and duration	4
This Act commences 3 months after the date of assent to this Act, unless commenced sooner by proclamation.	5 6
3 Definitions	7
In this Act:	8
<i>excluded steel</i> means:	9
(a) any steel product that is not made in Australia, being a product that would impose unreasonable costs if required to be made from Australian steel exported to the country of manufacture of the product, or	10 11 12
(b) any item made in Australia that is required to be made from a special kind of steel that:	13 14
(i) is not manufactured in Australia, and	15
(ii) could not be manufactured in Australia for a reasonable cost, or	16
(c) any steel not manufactured in Australia where the unit price for that steel (if it were manufactured in Australia) would be higher than the global steel price by either of the following:	17 18 19
(i) 20 percent,	20
(ii) any percentage higher than 20 percent which, in the opinion of IPART, represents the net value of the benefits derived from the continued operation of the Australian steel industry.	21 22 23
<i>global steel price</i> means the relevant price for steel specified by MEPS International Ltd or another price for steel specified by a global steel price indicator prescribed by the regulations.	24 25 26
<i>IPART</i> means the Independent Pricing and Regulatory Tribunal established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> .	27 28
<i>public authority</i> means any of the following:	29
(a) a NSW government agency,	30
(b) a Public Service agency,	31
(c) a local council,	32
(d) a State owned corporation,	33
(e) any other person or body that is prescribed by the regulations to be a public authority for the purposes of this Act.	34 35
<i>reasonable cost</i> means any cost price of steel that does not exceed 20 percent of the base cost of the steel if manufactured in Australia.	36 37
<i>relevant contract</i> means a contract under which a public authority contracts with another party who undertakes to construct any relevant public works on behalf of the public authority.	38 39 40
<i>relevant public works</i> means public works and infrastructure (including housing, transport, utilities and public buildings) that:	41 42
(a) involve the use of more than 2 tonnes of steel, and	43
(b) are to be constructed by or on behalf of a public authority, and	44
(c) are to be paid for, in part or in full, by the public authority.	45

4	Object of Act	1
	The object of this Act is to ensure, as far as practicable, that all steel used in public works or infrastructure constructed by or on behalf of public authorities is manufactured in Australia.	2 3 4
5	Relevant public works carried out by public authority	5
	A public authority must not construct any relevant public works unless any steel (other than excluded steel) used in the construction of the works is manufactured in a blast furnace or an electric arc furnace that is located in Australia.	6 7 8
6	Relevant contracts	9
(1)	A public authority must not enter into a relevant contract unless the contract contains the following:	10 11
(a)	a provision that requires any steel (other than excluded steel) used in the construction of the works under the contract to be manufactured in a blast furnace or an electric arc furnace that is located in Australia (the <i>steel requirement provision</i>),	12 13 14 15
(b)	a provision that imposes a financial penalty on any party to the contract who fails to comply with the steel requirement provision,	16 17
(c)	a provision that requires any party to the contract who undertakes to construct any relevant public works on behalf of a public authority to provide a cumulative steel usage report to the public authority before the public authority makes any progress payment or final payment under the contract,	18 19 20 21
(d)	a provision that enables the public authority to arrange for an independent audit of any cumulative steel usage report provided to the authority by a party to the contract.	22 23 24
(2)	In this section:	25
	<i>cumulative steel usage report</i> means a report prepared under section 7.	26
	<i>financial penalty</i> means a monetary penalty that is to be calculated for the purposes of this section as the total quantity of steel used under the contract that fails to comply with the steel requirement provision multiplied by the prescribed amount.	27 28 29
	<i>prescribed amount</i> means the amount (not less than \$1,000) prescribed by the regulations for the purposes of this section.	30 31
7	Cumulative steel usage reports	32
(1)	Any party to a relevant contract who undertakes to construct any relevant public works on behalf of a public authority is required to prepare a cumulative steel usage report.	33 34 35
(2)	Before the public authority makes any progress payment or final payment under the contract, that party is to provide the report and any other information prescribed by the regulations to:	36 37 38
(a)	the public authority, and	39
(b)	IPART.	40
(3)	A cumulative steel usage report is to include the following:	41
(a)	the quantity of any steel used under the contract,	42
(b)	the origins of any steel used under the contract,	43
(c)	evidence verifying the information referred to in paragraphs (a) and (b).	44

8	Obligations of public authorities	1
(1)	A public authority that carries out the construction of relevant public works is to ensure, as far as practicable, that:	2
		3
(a)	the construction complies with the requirements of this Act, and	4
(b)	there is an accurate method for the measurement of the quantity and origins of any steel used in the construction.	5
		6
(2)	A public authority that is a party to a relevant contract is to ensure, as far as practicable, that:	7
		8
(a)	any relevant contract entered into by the public authority complies with the requirements of this Act, and	9
		10
(b)	any information contained in a cumulative steel usage report provided to the public authority under a relevant contract is accurate.	11
		12
(3)	A public authority that carries out the construction of relevant public works or is a party to a relevant contract is, as soon as practicable after the end of the financial year in which the construction of the relevant public works is completed, to provide the Minister with a signed declaration certifying that the public authority has complied with this section.	13
		14
		15
		16
		17
9	Annual report by IPART	18
(1)	IPART is to prepare, within the period of 6 months after 30 June in each year, an annual report regarding the effectiveness of this Act in achieving its objective during the year that ended on that 30 June.	19
		20
		21
(2)	A report by IPART under this section is to include the following information:	22
(a)	the percentage of steel sourced from within Australia that is used in the construction of relevant public works carried out by or on behalf of a public authority,	23
		24
		25
(b)	the percentage of steel sourced from outside Australia that is used in the construction of relevant public works carried out by or on behalf of a public authority,	26
		27
		28
(c)	the estimated additional cost of steel incurred by public authorities as a result of the operation this Act.	29
		30
(3)	The Minister is, as soon as practicable, to cause a copy of the report to be tabled in each House of Parliament.	31
		32
10	Act to bind Crown	33
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	34
		35
		36
11	Regulations	37
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	38
		39
		40
		41
12	Review of Act	42
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	43
		44
		45

- | | | |
|-----|--|--------|
| (2) | The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. | 1
2 |
| (3) | A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. | 3
4 |