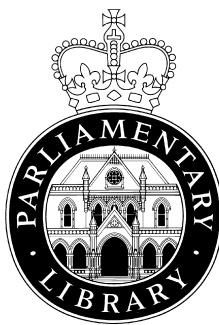


# BILLS DIGEST

**CLIMATE CHANGE RESPONSE AMENDMENT BILL 2005  
(SUPPLEMENTARY ORDER PAPER 2006 No 67 (Government))**

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**CLIMATE CHANGE RESPONSE AMENDMENT BILL 2005  
(SUPPLEMENTARY ORDER PAPER 2006 No 67 (Government))**

|                        |                  |
|------------------------|------------------|
| Date of introduction:  | 03 May 2006      |
| Portfolio:             | Environment      |
| Select Committee:      | Commerce         |
| Date report presented: | 28 July 2006     |
| SOP No 64 released:    | 07 November 2006 |

**PURPOSE**

The Bill amends the Climate Change Response Act 2002 (the Act) in respect of the function of New Zealand's Kyoto Protocol Registry to allow individuals (i.e. entities other than the Crown) to hold accounts in the Registry and to trade in emission units.

The Bill also extends the regulation-making powers of the Forests Act 1949 to enable the establishment of a mechanism to allow landowners to access the value, created under the Kyoto Protocol, of carbon from newly established permanent forest sinks

*The Bill as introduced is described in [Bills Digest No 1259](#).*

*The Bill as reported by the Select Committee is described in [Bills Digest No 1297](#).*

**MAIN CHANGES PROPOSED**

**Forest Sink Covenants**

**Definition of landholding**

SOP No 67 proposes that the definition of "landholding" in the Forests Act 1949 be amended in so far as it relates to forest sink covenants to include a registered interest in land " ... that entitles a person to receive units or the value of units based on carbon sequestration by that forest sink" (*Part 2, Clause 30, inserting subclause IAAA, amending Section 2(1) of the Forests Act 1949, definition of "landholding"*).

*Comment*

An interest in land is " ... any legal or equitable estate in land, or restriction on the use of any land, or any other right, charge, power or privilege over or in connection with land"<sup>1</sup>.

**Forest sink to be determined by regulations**

SOP No 67 proposes that instead of a forest sink being " ... a forest grown in a way that qualifies for removal units under the Protocol", it should be " ... a forest prescribed in regulations made under [Clause] 67Y ..." of the Bill (*Part 2 of the Bill*,

<sup>1</sup> Spiller, Butterworth's New Zealand Law Dictionary, LexisNexis, Wellington 2005, p. 152.

*Clause 30, inserting New Part 3B into the Forests Act 1949, New Section 67X, substituting a new definition of “forest sink”; New Section 67Y, inserting new paragraph (ad)).*

### **Penalty to be imposed for over-harvesting**

The Bill as introduced provides that regulations may be made to establish penalties for breaches of a forest sink covenant.

SOP No 67 proposes a distinctive penalty regime for harvesting in breach of a forest sink covenant to be established by regulations. Such a penalty may, however, only be imposed in respect of the proportion of forest on land subject to a forest sink covenant that is harvested in breach of the relevant covenant and such penalty prescribed by the regulations must not exceed the sum of:

- all units received in respect of that proportion of the forest (or their monetary equivalent); and
- any additional units calculated on the basis of an annual compounding rate of ten percent applied to each year’s carbon sequestration from that proportion of the forest for the period beginning on the date that the covenant came into force and ending on the date that the breach occurred (or their monetary equivalent) (*Part 2 of the Bill, Clause 30, inserting New Part 3B into the Forests Act 1949, New Section 67Y, inserting new subsection (2A)*).

### **Forest sink covenants on unregistered general land and unregistered Maori land**

SOP No 67 proposes that if a forest sink covenant relates to land for which no computer freehold register has been created, the Registrar-General of Land must create a computer interest register if there is endorsed on the register a certificate by a licensed cadastral surveyor to the effect that the land to which the covenant relates is within the boundaries of an identified parcel of land and the Registrar-General of Land is satisfied that the certificate is correct. If a forest sink covenant relates to Maori land for which no computer freehold register or provisional register has been created, the Registrar of the Maori Land Court must enter on the memorial schedule of the Title Binder relating to the Maori land a notification of the forest sink covenant (*Part 2 of the Bill, Clause 30, inserting New Part 3B into the Forests Act 1949, New Section 67ZD, inserting new subsections (1A) and (1B)*).

### **Crown may register charges and liabilities clarified on change of ownership**

SOP No 67 proposes that the Crown may register charges with respect to land subject to forest sink covenants in certain circumstances (such as where liabilities are owed to the Crown arising from emissions of greenhouse gases in relation to a forest sink or where penalties have been imposed for breaches of harvesting restrictions contained in covenants). SOP No 67 also proposes the clarification of the liability of landowners to the Crown in respect of the observance of forest sink covenants (*Part 2 of the Bill, Clause 30, inserting New Part 3B into the Forests Act 1949, inserting New Sections 67ZDA and 67ZDB*).