

Climate Change Response (Emissions Trading Forestry Sector) Amendment Bill

Government Bill

As reported from the Emissions Trading
Scheme Review Committee

Commentary

Recommendation

The Emissions Trading Scheme Review Committee has examined the Climate Change Response (Emissions Trading Forestry Sector) Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The Climate Change Response (Emissions Trading Forestry Sector) Amendment Bill amends the Climate Change Response Act 2002 to delay a number of requirements, including reporting requirements for foresters, allowing applications for exemptions for certain land holdings, and the publication by the Government of an allocation plan for pre-1990 forest owners.

Recommended amendments

We recommend amending the bill to specify 1 July 2010 as the final possible date that may be set as a deadline for applications to be made for exemptions for land holdings with less than 50 hectares of pre-1990 forest land.

The bill enables regulations to be made to prescribe a date by which such applications must be made. If no such regulation were to be made, the chief executive would be required to specify a date by public notice. We consider that the primary legislation should set a specific date as the last possible date that can be set as a deadline for such applications, and we consider that 1 July 2010 would be the appropriate date. This would not prevent an earlier date being set by either regulation or public notice.

While we see advantage in allowing an adequate period for small forest owners to measure their forests and apply for an exemption, we were advised that the determinations on the allocation plans cannot be prepared until all exemptions are known. We do not wish to hold up the preparation of the determinations on the allocation plans on which the rest of the industry depends, and so agree that the chief executive should have flexibility to set the date earlier than the 1 July 2010 deadline.

Appendix

Committee process

The Climate Change Response (Emissions Trading Forestry Sector) Amendment Bill was referred to us on 23 June 2009. We received advice from the Ministry for the Environment and the Ministry of Agriculture and Forestry.

Committee membership

Hon Peter Dunne (Chairperson)

Charles Chauvel

Jeanette Fitzsimons

Craig Foss

Hon Rodney Hide

Dr Paul Hutchison

Rahui Katene

Moana Mackey

Hekia Parata

Hon David Parker

Nicky Wagner

**Climate Change Response (Emissions
Trading Forestry Sector) Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Nick Smith

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Climate Change Response (Emissions Trading Forestry Sector) Amendment Act **2009**.

2 Commencement

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

3 Principal Act amended

This Act amends the Climate Change Response Act 2002.

Part 1

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Forestry sector amendments**4 Other regulations**

Section 168(1) is amended by inserting the following paragraph after paragraph (c):

“(ca) prescribing a date by which an application to the chief executive must be submitted under section 183, which must be no later than ~~the date specified under section 82(2)(e) in respect of an allocation plan providing for the matters specified in section 71~~ 1 July 2010; and”.

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5 Applications for exemption for land holdings of less than 50 hectares of pre-1990 forest land

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(1) Section 183(3) is amended by omitting “subsection (1)” and substituting “subsection (2)”.

(2) Section 183(3) is amended by repealing paragraph (a) and substituting the following paragraph:

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“(a) be submitted to the chief executive by—

“(i) the date prescribed by regulations made under **section 168(1)(ca)**; or

“(ii) in the absence of a date prescribed by regulations made under **section 168(1)(ca)**, the date specified by public notice given by the chief executive, which must be no later than ~~the date specified under section 82(2)(e) in respect of an allo-~~

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ation plan providing for the matters specified in section 74 1 July 2010; and”.

- (3) Section 183(5) is amended by omitting “in that subsection” and substituting “in the public notice given under **subsection (3)(a)(ii)** or prescribed by regulations under **section 168(1)(ca)**”.

6 First emissions return for pre-1990 forest land activities

- (1) Section 196(1) is amended by inserting “in the period commencing on **1 January 2008** and ending on **31 December 2009**” after “Schedule 3”.

- (2) Section 196(2) is amended by omitting “Section 65 applies” and substituting “Section 65(2) and (3) apply”.

- (3) Section 196 is amended by inserting the following subsection after subsection (2):

“(2A) A participant referred to in subsection (1) must, by **30 April 2011** but not before **1 January 2011**, surrender the number of units listed in the participant’s assessment in the emissions return submitted under subsection (1)(b) in relation to the activity.”

- (4) Section 196(3) is amended by adding “required to be submitted under section 65”.

- (5) Section 196(5) is amended by omitting “carried out in 2008, the person who carried out the activity has until 31 January 2009” and substituting “carried out in 2008 or 2009, the person who carried out the activity has until **31 January 2010**”.

- (6) Section 196 is amended by adding the following subsection:

“(7) Despite section 129(1)(b)(i), a person who carried out, before the commencement of this subsection, an activity listed in Part 1 of Schedule 3 for the period commencing with **1 January 2008** and ending with the close of **31 December 2009** is not liable under section 129(1)(b)(i) if the person notifies the chief executive of that activity on or before **31 January 2010**.”

7 New section 196A inserted

The following section is inserted after section 196:

“196A Power to withdraw or suspend certain draft allocation plans

- “(1) This section applies to any draft allocation plan publicly notified under section 78(3) before the commencement of this section. 5
- “(2) If this section applies, the Minister may, by public notice, withdraw or suspend the draft allocation plan.
- “(3) If the Minister suspends a draft allocation plan, the public notice must specify the period of suspension.
- “(4) However, the Minister may, by subsequent public notice, end the suspension before the period of suspension expires. 10
- “(5) When, or as soon as is reasonably practicable after, the suspension ends or expires, the Minister must renotify the draft allocation plan in accordance with section 78(3) and (4).
- “(6) When a suspension ends or expires, the report required under section 78(5) must contain recommendations in respect of any submissions made under section 78(4) on the draft allocation plan before or after its suspension. 15
- “(7) If the Minister withdraws a draft allocation plan, a new draft allocation plan must be prepared under section 78. 20
- “(8) The Minister must ensure that a public notice given under **sub-section (2) or (4)** is made available in hard copy at the office of, and is accessible via the Internet site of the department of, the chief executive responsible for the administration of this Act and at such other places as the Minister considers appropriate.” 25

Part 2

Miscellaneous technical amendments

- 8 Allocation to agriculture**
Section 76(1) is amended by omitting “powers this section and section 78(2)” and substituting “powers”. 30
- 9 Draft allocation plans**
Section 78(3)(b) is amended by omitting “the Act” and substituting “this Act”.

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**10 Incorporation by reference in regulations made under
section 163**

The heading to section 169 is amended by omitting “**section 163**” and substituting “**section 163, 164, 165, 167, or 168**”.

11 Amendments to Summary Proceedings Act 1957 5

(1) This section amends the Summary Proceedings Act 1957.

(2) The item relating to the Climate Change Response Act 2002 in Part 2 of Schedule 1 is amended by—

(a) omitting “120” and substituting “133”; and

(b) omitting “offence” and substituting “offences”. 10

Legislative history

18 June 2009

23 June 2009

Introduction (Bill 47–1)

First reading and referral to Emissions Trading
Scheme Review Committee
