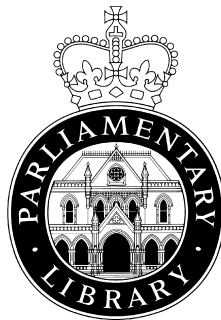


BILLS DIGEST

CLIMATE CHANGE RESPONSE AMENDMENT BILL 2005 (2005 No 258-2)

As reported from the Commerce Committee: 28 July 2005

Bills Digest No. 1297



NEW ZEALAND PARLIAMENTARY LIBRARY

Bills Digest No. 1297

Published by the Parliamentary Library
Parliament Buildings, Wellington
New Zealand.

30 July 2005

Prepared by John McSoriley B.A.L.L.B., Barrister
Legislative Analyst
Ph. (04) 471-9626 (Ext. 9626)
Fax (04) 471-1250

Caution

This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.

Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Copyright

© NZ Parliamentary Library, 2005

Except for educational purposes permitted under the Copyright Act 1994, no part of this document may be reproduced or transmitted in any form or by any means, including information storage and retrieval systems, other than by Members of Parliament in the course of their official duties, without the consent of the Parliamentary Librarian, Parliament Buildings, Wellington, New Zealand.

This document may also be available through commercial online services and may be viewed and reproduced in accordance with the conditions applicable to those services.

CLIMATE CHANGE RESPONSE AMENDMENT BILL 2005 (2005 No 258-2)

Date of introduction:	03 May 2005
Portfolio:	Environment
Select Committee:	Commerce
Date report presented:	28 July 2005

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](#).

MAIN CHANGES TO THE BILL**Transfers of units from one account to another**

The Bill as introduced provides that the Minister of Finance may give directions to the Registrar regarding accounts and units.

The Select Committee has recommended that the Minister of Finance may not give a direction to transfer units from an account holder other than the Crown to another account in the Registry unless:

- the Minister has the written consent of the account holder; or
- the Minister gave the account holder "reasonable notice" (i.e. "sufficient opportunity in the circumstances for the relevant account holder to make a written submission to the Minister of Finance on the transfer of the units before the units are transferred") and the transfer is required to comply with New Zealand's obligations under the Protocol (*Part 1, Clause 5, inserting new subclause (5) (inserting new subsections (2) and (3) into Section 7 of the Act*).

Directions to close an account holder's holding account

The Bill provides that an account holder may submit a request to the Registrar to close one or more of that account holder's holding accounts in the unit register.

The Select Committee has recommended that the responsible Minister may give a direction to the Registrar to close an account holder's holding account:

- if the Minister has the written consent of the account holder;
- where such written consent is not given if the Minister has given the account holder reasonable notice and if:
 - the closure is required to comply with New Zealand's obligations under the Protocol; or
 - the account holder has failed to comply with the Act; or
 - the Minister is satisfied that the account holder no longer requires the account (*Part 1, Clause 13, amending New Section 18B of the Act, insertion of new subclause (1A) and deletion of subclause (5)*).

Protection for Registrar narrowed

The Bill as introduced provides that no action may be brought against the Crown or the Registrar for any loss or damage resulting from “an inaccuracy in a search of the unit register” or “an inaccurate entry in the unit register”.

The Select Committee has recommended that the protection for the Registrar in respect of inaccurate entries be extended to omissions also but that protection in respect of inaccurate entries or omissions will only apply if the entry or omission “arises from reasonable reliance on information received by the Registrar from ... the independent transaction log ... or ... an account holder” (*Part 1, Clause 23, substituted Clause 30A*).

Exemption from export controls under the Forests Act 1949

The Forests Act 1949 places export controls on the export of indigenous timber. There are certain exemptions however and one of those is, in general terms, indigenous timber from a planted indigenous forest, if that timber is, or is from, a shrub, bush, seedling, or sapling or if the Secretary of Forestry (now the Director-General of the Ministry of Agriculture and Forestry) has stated in writing that he or she is satisfied that the timber has been harvested from a planted indigenous forest.

The Select Committee has recommended the addition of another exemption from the export controls, indigenous timber from a forest subject to a forest sink covenant (*Part 2, Clause 30, amending Section 67C(1)(g) of the Forests Act 1949 by adding new subparagraph (1AA)*).

Exemption from milling prohibition under the Forests Act 1949

The Forests Act 1949 provides that no person may mill any indigenous timber at a sawmill unless the sawmill is registered under regulations made under the Forests Act 1949, and at least one of several alternative requirements apply.

The Select Committee has recommended the addition of a new alternative requirement, that the forest is subject to a forest sink covenant under this Bill (*Part 2, Clause 30, amending Section 67D(1)(b)(i) of the Forests Act 1949 by adding new subparagraph (1AA)*).