Climate Change Response (Emissions Trading and Other Matters) Amendment Bill 2012

**Purpose**

The aim of this Bill is to amend the Climate Change Response Act 2002 (the Act) to modify the emissions trading scheme (ETS), provide further regulation-making powers and to make “technical and operational changes”\(^1\).

**Background**

**Outline**

The main objectives of the Bill are described as being to:

- “ensure that the ETS more effectively supports the Government's economic growth priorities”;

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“ensure that the ETS is flexible enough to cater for a range of international outcomes in the period 2013 to 2020”;  
“improve the operation and administration of the ETS”; and  
“change the current treatment of the synthetic greenhouse gases sector in the ETS”\(^2\).

The main measures in the Bill are described as being to:

- “maintain the 1-for-2 surrender obligation after 2012, without specifying an end date in legislation”;  
- “maintain the $25-a-unit fixed price option after 2012, without specifying an end date in legislation”;  
- “remove a specified entry date for surrender obligations on biological emissions from agriculture”;  
- “introduce offsetting within the ETS as an option for pre-1990 forest landowners”;  
- “claw back the second tranche of allocation to pre-1990 offsetting forest landowners from those who ultimately take up offsetting”;  
- “introduce an express regulation-making power to allow auctioning within an overall limit on the amount of New Zealand units (NZUs) allocated (excluding the second tranche of allocation to pre-1990 forest landowners) or provided under a negotiated greenhouse gas agreement”;  
- “extend the ban on the export of NZUs from non-forestry sectors, whilst the fixed-price option remains in place”;  
- “remove the requirement to ‘back’ all NZUs issued with a Kyoto unit”;  
- “align the ETS with international greenhouse gas accounting standards by adopting the latest internationally accepted global warming potentials”;  
- “remove the ETS obligation on the importation of synthetic greenhouse gases (SGG) in motor vehicles, and replace it with a motor vehicle levy”;  
- “remove the ETS obligation on the importation of SGG in goods, and replace it with a goods levy”;  
- “move the ETS obligations relating to sulphur hexafluoride from importers and manufacturers to users”;  
- “prohibit wilful release of SGG”;  
- “create criteria for gaining NZUs for the export and destruction of SGG to prevent stockpiling”\(^3\).

\(^2\) Ibid., p. 1.  
\(^3\) Ibid., pp. 1 and 2.
The Bill also makes a number of other changes to the ETS which are described as “technical and operational”, including:

- “adding fugitive coal seam methane to the list of emissions sources eligible for allocation for coal users”;
- “adding liquid fossil fuels used in stationary equipment to the list of emissions sources eligible for allocation”;
- “clarifying that the Minister for Climate Change Issues has discretion on whether to make regulations prescribing a new activity eligible for allocation”;
- “suspending the phase-out of industrial allocation until the relevant participants face full surrender obligations, and phasing out industrial allocation at a rate of 1.3% per annum on a straight line basis (rounded to 2 decimal places) once full surrender obligations for the relevant participants begin”;
- “amending the sections of the Act relating to the formal review of the operation of the ETS, to allow for more flexibility in the timing of future reviews”;
- “clarifying that the Environmental Protection Authority (the EPA) can issue guidelines or standards for the collection of forestry data and information”;
- “specifying that the reporting period for the EPA’s annual reporting under section 89 should be 1 July of one year to 30 June of the following year, and the publishing date should be as soon as practicable thereafter”;
- “adding the own-use of crude oil and other liquid hydrocarbons to the list of activities facing emissions obligations from 1 January 2014”;
- “adding, from 1 July 2013, the ability to purchase other types of obligation fuel to the optional activities in Schedule 4”;
- “ensuring, when removing the obligation for the Crown to purchase and surrender units on behalf of insolvent participants, that the Crown can still pursue through a court the cost of units not surrendered”;
- “introducing a level of flexibility to some provisions in the Act that cross-reference to the Kyoto Protocol (the Protocol) and other elements of the international framework (given uncertainty regarding the international framework and New Zealand’s future relationship to it)”;
- “removing egg producers from the ETS and clarifying the definition of meat processors”;
- “making minor forestry changes, including,
  - clarifying where deforestation liabilities do not apply; and
  - changes to continue efforts to control tree weeds; and

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ensuring that unrelated holdings of trustees are not counted towards the less-than-50 hectares exemption threshold.

**Regulatory impact statements**

Copies of regulatory impact statements may be found at:

http://www.treasury.govt.nz/publications/informationreleases/ris

**Main Provisions**

**Sale of New Zealand units by auction**

The Bill provides a power for the Minister for Climate Change Issues to sell New Zealand units by auction or to appoint an agent to do so, if regulations are made for that purpose. The regulation-making power is provided in respect of selling New Zealand units by auction within a prescribed overall limit, including the power to update and extend the duration of those regulations on an annual basis. The Minister must have regard to certain matters before recommending that auction regulations be made. Any proposals to amend such regulations must be notified in the Gazette a year ahead of the date proposed for such regulations to take effect. Regulations must not prevent the number of allocated units from exceeding the overall limit set by regulation, but must ensure that units are not auctioned if that overall limit is exceeded (Part 1, Clause 9, inserting New Section 6A into the Climate Change Response Act 2002; Clause 18, amending Section 30G of the Climate Change Response Act 2002).

**Agriculture**

The Bill delays the application of the ETS to Agriculture indefinitely (Part 1, Clause 36, amending Section 85(2) of the Climate Change response Act 2002; Clauses 37 (inserting New Sections 85A and 85B into the Climate Change response Act 2002); Clause 38, amending Section 86 of the Climate Change Response Act 2002; Clause 95, Clause 95, replacing Section 217(1)(d) of the Climate Change Response Act 2002).

**Forestry**

The Bill introduces off-setting for pre-1990 forest land owners and allocates the full second tranche of compensation where off-setting is not taken up (Part 1, Clause 73, inserting New Sections 178A-178D into the Climate Change Response Act 2002).

**Synthetic greenhouse gases**

The Bill removes the ETS obligation on the importation of synthetic greenhouse gases in motor vehicles and replaces it with a motor vehicle levy. The Bill sets out the functions of the EPA in relation to informing about and monitoring the levy. The Registrar of Motor Vehicles is given the function of receiving payment of the levy. The role of New Zealand Customs in relation to imports is also set out

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4 Ibid., pp. 2 and 3.