

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

Government Bill

As reported from the committee of the whole
House

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Trading and Other Matters) Amendment Bill**

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

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Hon Tim Groser

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Climate Change Response (Emissions Trading and Other Matters) Amendment Act **2012**.

2 Commencement

5

- (1) Sections 4(2) and (3), 89 to 92, and 102(2) come into force on **1 July 2013**.
- (2) The rest of this Act comes into force on **1 January 2013**.

3 Principal Act

This Act amends the Climate Change Response Act 2002 (the **principal Act**). 10

Part 1

Amendments to Principal Act

4 Section 2A amended (Application of Schedules 3 and 4)

- (1) In section 2A(1)(b), replace “222A to 222D” with “**63A, 64A, 178A, and 178B**”. 15
- (2) In section 2A(2), replace “Parts 1 and 3” with “Part 1”.
- (3) After section 2A(2), insert:
“(2A) Part 3 of Schedule 4 applies on and after **1 July 2013**.”
- (4) In section 2A(3), replace “Part 2” with “**Subpart 1** of Part 2”. 20
- (5) After section 2A(7), insert:
“(7A) **Part 1A** of Schedule 3 applies on and after **1 January 2013**.
“(7B) **Subpart 2** of Part 3 of Schedule 3 applies on and after **1 January 2014**.”

5 Section 3 amended (Purpose)

Replace section 3(1)(b) with:

- “(b) provide for the implementation, operation, and administration of a greenhouse gas emissions trading scheme in New Zealand that supports and encourages global efforts to reduce the emission of greenhouse gases by— 5
 - “(i) assisting New Zealand to meet its international obligations under the Convention and the Protocol; and
 - “(ii) reducing New Zealand’s net emissions of those gases to below business-as-usual levels; and 10
- “(c) provide for the imposition, operation, and administration of a levy on specified synthetic greenhouse gases contained in motor vehicles and also another levy on other goods to support and encourage global efforts to reduce the emission of those gases by— 15
 - “(i) assisting New Zealand to meet its international obligations under the Convention and the Protocol; and
 - “(ii) reducing New Zealand’s net emissions of those gases to below business-as-usual levels.” 20

6 Section 3A amended (Treaty of Waitangi (Te Tiriti o Waitangi))

In section 3A(d)(i), replace “the Minister must, when appointing members to a review panel under section 160(3),” 25 with “if the Minister initiates a review under **section 160(1) or 266(1)** and appoints an independent panel under **section 160(3) or 266(3)**, the Minister must”.

7 Section 4 amended (Interpretation)

- (1) In section 4(1), insert in their appropriate alphabetical order: 30
- “agency means,—
 - “(a) in relation to the motor vehicle levy, the Registrar of Motor Vehicles; and
 - “(b) in relation to the goods levy, the chief executive of the New Zealand Customs Service 35
- “**annual financial statements of the Government** has the meaning given in section 2(1) of the Public Finance Act 1989

“**carbon equivalence**, in relation to land that is the subject of an offsetting forest land application under **section 186A**, means that the offsetting forest land achieves, within the usual rotation period for forest species on the pre-1990 forest land, the same carbon stock as was contained in the pre-1990 forest land at the time of the clearing as determined in accordance with regulations made under **section 186F** 5

“**electrical switchgear** means fittings for—

“(a) controlling the distribution of electricity; or

“(b) controlling or protecting electrical circuits and electrical equipment; or 10

“(c) the transmission of electricity

“**fugitive coal seam gas** means gas released by the activity of mining coal as calculated in accordance with any regulations made under this Act 15

“**goods** means all kinds of movable property, including motor vehicles

“**goods levy** means the synthetic greenhouse gas levy imposed by **section 227(1)(b)**

“**importer** has the same meaning as in section 2(1) of the Customs and Excise Act 1996 20

“**leviable goods** means goods that contain a specified synthetic greenhouse gas, but does not include an air-conditioning system that is part of a motor vehicle

“**leviable motor vehicle** means a motor vehicle that includes, as part of the motor vehicle, an air-conditioning system containing a specified synthetic greenhouse gas 25

“**levy year** means the period of 12 months starting on 1 January and ending with the close of 31 December

“**motor vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998 30

“**motor vehicle levy** means the synthetic greenhouse gas levy imposed by **section 227(1)(a)**

“**New Zealand Customs Service** and **the Customs** have the same meanings as in section 2(1) of the Customs and Excise Act 1996 35

“**offsetting forest land** means land that the EPA has approved as offsetting forest land under **section 186B**

“**pre-1990 offsetting forest land** means offsetting forest land that the EPA has noted as pre-1990 offsetting forest land on the register under **section 186D(3)**

“**registered**,—

“(a) in relation to a motor vehicle, has the same meaning as in section 2(1) of the Land Transport Act 1998; but 5

“(b) otherwise means registered in accordance with this Act
“**Registrar of Motor Vehicles** has the same meaning as **Registrar** in section 233(1) of the Land Transport Act 1998

“**specified synthetic greenhouse gas** means a hydrofluorocarbon or perfluorocarbon specified in regulations made under **section 243(1)(a)** 10

“**synthetic greenhouse gas** means—

“(a) a hydrofluorocarbon; or

“(b) a perfluorocarbon 15

“**synthetic greenhouse gas levy** or **levy** means the levy imposed by **section 227**

“**tree weed** means a tree that is defined or designated as—

“(a) a pest in a pest management strategy under the Biosecurity Act 1993; or 20

“(b) a tree weed in regulations made under this Act

“**tree weed spread** means the spread of a tree weed by natural regeneration

“**usual rotation period**, in relation to a forest species on land that is the subject of an offsetting forest land application under **section 186A**, means the usual rotation period prescribed for a forest species in any regulations made under this Act” 25

(2) In section 4(1), definition of **carbon dioxide equivalent**, after “Article 5.3 of the Protocol”, insert “, as if the commitment period were binding on New Zealand” 30

(3) In section 4(1), replace the definition of **emissions return** with:

“**emissions return**—

“(a) means—

“(i) an annual emissions return submitted under section 65; or 35

“(ii) a quarterly emissions return submitted under section 66; or

- “(iii) a final emissions return submitted under section 118; or
- “(iv) an emissions return submitted under section 186, 187, 189, 191, 192, or 193; and
- “(b) includes any emissions return submitted under section 65, 66, 118, 186, 187, 189, 191, 192, or 193 that shows nil liability”.
- (4) In section 4(1), definition of **post-1989 forest land**, after paragraph (c), insert:
- “(ca) was pre-1990 forest land, other than exempt land, that was deforested on or after 1 January 2013 and offset by pre-1990 offsetting forest land; or
- “(cb) was pre-1990 offsetting forest land that was deforested after 1 January 2013 and in respect of which any liability to surrender units arising in relation to an activity listed in **Part 1A** of Schedule 3 has been satisfied; or”.
- (5) After section 4(5), insert:
- “(6) For the purposes of sections 62, 65, 66, 67, 118, 187, 189, 191, 192, and 193, **activity** or **activities**, in relation to a participant who submits an emissions return that shows nil liability, includes any thing that would have been an activity listed in Schedule 3 or 4 if it had been carried out as, or to the extent, described in Schedule 3 or 4 during the period reported on in the emissions return.
- “(7) For the purposes of the definition of **landowner** in relation to the activity listed in Part 1 of Schedule 3, 1 or more pieces of land (**land A**) and 1 or more pieces of other land (**land B**) that are owned by the same person are to be treated as if they were owned by different persons if—
- “(a) land A and land B are held under different trusts; and
- “(b) each trust has the same trustee or trustees; and
- “(c) the trustees hold land A and land B in their capacity as professional trustees (as defined in **section 183(7)**).”
- 8 Subpart 1 heading in Part 2 replaced**
In Part 2, replace the subpart 1 heading with:

“Subpart 1—Ministerial powers”.

9 New section 6A inserted (Minister’s power to sell by auction)

After section 6, insert:

“6A Minister’s power to sell by auction 5

If regulations are made under **section 30G(1)(p)**, the Minister may, on behalf of the Crown,—

“(a) sell New Zealand units by auction within a prescribed overall limit:

“(b) appoint agents to conduct the sale on the terms and conditions that the Minister thinks fit.” 10

10 Section 7 amended (Minister of Finance may give directions to Registrar regarding accounts and units)

After section 7(1)(da), insert:

“(db) transfer Kyoto units from the surrender account to a Crown holding account if the units are not required, at the time of the transfer, to meet— 15

“(i) New Zealand’s international obligations; or

“(ii) any equivalent domestic targets.”

11 Section 10 amended (Purpose of Registry) 20

In section 10(1)(a), delete “, for the first commitment period or a subsequent commitment period.”

12 Section 18CA amended (Effect of surrender, retirement, cancellation, and conversion)

Replace section 18CA(3)(a) with: 25

“(a) a direction from the Minister of Finance, to—

“(i) a retirement account or a cancellation account; or

“(ii) a Crown holding account under **section 7(1)(db)**; or”.

13 Section 23 amended (Receiving Kyoto units from overseas registries) 30

(1) In section 23(1), delete “, in accordance with the notification, when the Registrar receives the following:”.

- (2) Repeal section 23(1)(a).
- (3) After section 23(3), insert:
- “(4) Subsection (1) is subject to subsection (2).”
- 14 Section 27 amended (Information accessible by search)** 5
 Replace section 27(2)(c) with:
 “(c) the total quantity of New Zealand units issued during that year under section 68 or **178B**; and”.
- 17A Section 30E amended (Conversion of New Zealand units into designated assigned amount units for sale overseas or cancellation)** 10
 After section 30E(3), insert:
 “(3A) The Registrar’s obligations under subsection (3) apply only if, and to the extent that, there are sufficient designated assigned amount units to meet a request under subsection (2) to convert New Zealand units.” 15
- 18 Section 30G amended (Regulations relating to Part 2)**
 After section 30G(1)(o), insert:
 “(p) prescribing matters relating to the powers of the Minister under **section 6A** to sell New Zealand units by auction, including— 20
 “(i) prescribing the date on which the sale of New Zealand units by auction commences:
 “(ii) providing for a pilot auction to be conducted in advance of the date from which sale by auction is to commence: 25
 “(iii) prescribing the persons or classes of persons eligible to participate in an auction of New Zealand units:
 “(iv) prescribing penalties for breaches of regulations made under this paragraph: 30
 “(v) prescribing an overall limit in the manner provided for by **section 30GA(1)**:
 “(vi) providing for any other matters for the conduct of an auction that the Minister considers relevant to the effective conduct of the auction: 35”

“(q) enabling the Minister to specify 1 or more types of Kyoto unit into which an account holder may apply to convert a New Zealand unit under **section 30E**, if assigned amount units are not available in a Crown holding account.” 5

18A New sections 30GA and 30GB inserted

After section 30G, insert:

“30GA Further provisions governing regulations made under section 30G(1)(p)

- “(1) If regulations are made under **section 30G(1)(p)**,— 10
- “(a) the Minister must recommend to the Governor-General that those regulations prescribe the overall limit on the number of New Zealand units that may, in any year for a period of 5 years from the date prescribed in the regulations,— 15
 - “(i) be allocated; and
 - “(ii) be sold by auction; and
 - “(iii) be provided under a negotiated greenhouse agreement; and
 - “(b) the Minister must, on an annual basis, make a recommendation to the Governor-General that regulations be made that extend the application of the regulations for a further year. 20
- “(2) Before the Minister makes a recommendation to the Governor-General under **subsection (1)**, the Minister must have regard to— 25
- “(a) the matters set out in section 68(2)(b)(i) to (iii) (with any necessary modifications); and
 - “(b) New Zealand’s projected emission trends; and
 - “(c) any domestic target to reduce emissions; and 30
 - “(d) the number of New Zealand units that are expected to be allocated; and
 - “(e) the emissions to which the greenhouse gas emissions trading scheme applies; and
 - “(f) the arrangements that govern the operation of the greenhouse gas emissions trading scheme; and 35
 - “(g) the limit, if any, on the number of units that are not New Zealand units that a participant may surrender; and

- “(h) any other matters that the Minister considers relevant.
- “(3) Before making a recommendation under **subsection (1)(a)** to amend any regulations that prescribe the overall limit, the Minister must give notice in the *Gazette* of any proposal to amend the regulations not later than the date that is 1 year 5
before the date when the amended regulations take effect.
- “(4) Any change to the overall limit prescribed by regulations made under **section 30G(1)(p)(v)** must not take effect in the same year as notice of that change is given under **subsection (3)**.
- “(5) In prescribing an overall limit on the number of New Zealand units available, the regulations made under **section 30G(1)(p)**— 10
- “(a) must not prevent the number of New Zealand units that may be allocated from exceeding the prescribed overall limit; but 15
- “(b) must provide that no New Zealand units may be auctioned if the prescribed overall limit on the number of New Zealand units available is exceeded.
- “(6) In **subsections (1)(a)(i) and (5)(a)**, the reference to New Zealand units allocated does not include— 20
- “(a) New Zealand units transferred in accordance with a determination of the Minister under section 77 or 78 that relates to an allocation under the pre-1990 forest land allocation plan; or
- “(b) any requirement for an additional allocation in the circumstances described in section 86C(5)(b). 25
- “(7) To avoid doubt, **subsections (3) and (4)** do not apply to regulations to which **subsection (1)(b)** applies.
- “**30GB Further provisions governing regulations made under section 30G(1)(q)** 30
- “(1) This section applies if regulations made under **section 30G(1)(q)** specify that a New Zealand unit may be converted into a type of Kyoto unit other than a designated assigned amount unit.
- “(2) The provisions of section 30E apply to a conversion to the type 35
of Kyoto unit specified under those regulations as if a reference to a designated assigned amount unit or an assigned amount

unit in that section were a reference to the type of Kyoto unit specified in the regulations.

“(3) A reference to a designated assigned amount unit or an assigned amount unit in sections 27(2)(u)(ii) and **178C(1)** must be read as a reference to the type of Kyoto unit specified in the regulations. 5

“(4) Despite **subsection (2)**, section 30E(5)(a) does not apply if this section applies.”

19 Section 30H amended (Procedure for certain regulations relating to units) 10

(1) In section 30H(1), replace “(j) or (k)” with “(j), (k), **(p), or (q)**”.

(1A) In section 30H(3), after “section”, insert “, except regulations made under **section 30G(1)(q)**”.

(2) In section 30H(5), replace “(j), or (k)” with “(j), (k), **(p), or (q)**”. 15

20 Section 30I amended (Incorporation by reference in regulations made under section 30G)

In section 30I(1)(b)(ii), after “in accordance with”, insert “the Convention or”. 20

21 Section 32 amended (Primary functions of inventory agency)

In section 32(1)(b)(i), after “report under”, insert “Articles 4 and 12 of the Convention and”.

22 Section 36 amended (Authorisation of inspectors) 25

In section 36(1)(b), replace “Ministry of Agriculture and Forestry” with “Ministry for Primary Industries”.

23 Section 50 amended (Regulations)

(1) After section 50(2)(f), insert:

“(fa) the registration of motor vehicles of each class that have air-conditioning systems that contain hydrofluorocarbons or perfluorocarbons:”. 30

- (2) In section 50(2)(k), replace “Article 3.3 or Article 3.4 of the Protocol” with “the Convention or the Protocol”.

24 Section 51 amended (Incorporation by reference in regulations made under section 50)

In section 51(1)(b)(ii), after “in accordance with”, insert “the Convention or”.

26 Section 57 amended (Applications to be registered as participant in respect of activities listed in Schedule 4)

- (1) In the heading to section 57, replace “Applications” with “Applicant”.

- (2) After section 57(4)(b), insert:

“(ba) has met any eligibility criteria prescribed in relation to the activity; and”.

27 Section 59 amended (Removal from register of participants in respect of activities listed in Schedules 3 and 4)

In section 59(1) and (2), after “carry out the activity”, insert “for the remainder of the year and the whole of the following year”.

28 New section 63A inserted (Modification of liability to surrender units to cover certain emissions)

After section 63, insert:

“63A Modification of liability to surrender units to cover certain emissions

- “(1) This section applies to a person who—

“(a) carries out an activity listed in any of Parts 2 to 6 of Schedule 3; or

“(b) is a participant in relation to an activity listed in Part 3 or 4 of Schedule 4.

- “(2) Despite anything in this Act, a person to whom this section applies is only liable to surrender, and may only surrender, 1 unit for each 2 whole tonnes of emissions from the activity.”

29 New section 64A inserted (Modification of entitlement to receive New Zealand units for removal activities)

After section 64, insert:

“64A Modification of entitlement to receive New Zealand units for removal activities

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“(1) This section applies to a person who—

“(a) is a participant in respect of an activity listed in Part 2 of Schedule 4; and

“(b) is entitled to receive New Zealand units under section 64.

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“(2) Despite section 64, a participant to whom this section applies is entitled to receive only 1 New Zealand unit for each 2 whole tonnes of removals from the activity.”

30 Section 65 amended (Annual emissions returns)

(1) Replace section 65(1) with:

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“(1) In the period beginning on 1 January and ending on 31 March in each year, a participant—

“(a) must submit an annual emissions return to the EPA in respect of each of the activities listed in Schedule 3 or Part 2, 3, or 4 of Schedule 4 that the participant carried out in the immediately preceding year:

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“(b) must, in the case where approval for the participant’s offsetting forest land application is treated as revoked under **section 186D(2)** or is revoked under **section 186G(1)**, submit an annual emissions return to the EPA in respect of the activity listed in Part 1 of Schedule 3 that the participant carried out that covers the period—

“(i) beginning when the activity first occurred; and

“(ii) ending on the date that the revocation occurred.

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“(1A) For the purposes of the annual emissions return, the activity carried out in the period specified in **subsection (1)(b)** is to be treated as if it were carried out in the immediately preceding year.”

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(2) After section 65(2), insert:

“(2A) If **section 186E(1)** applies,—

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“(a) subsection (2)(b) and (c) do not apply; and

- “(b) the annual emissions return must record the emissions for the relevant pre-1990 forest land under **section 186D(3)(c)** as emissions of the participant for an activity listed in **Part 1A** of Schedule 3 for which the participant is liable to surrender units.” 5
- (3) In section 65(4), after “subsection (2)(c)(i)”, insert “or recorded under **subsection (2A)(b)**”.
- 30A Section 77 amended (Determination made in accordance with allocation plan)**
After section 77(8), insert: 10
- “(8A) Despite subsection (8)(d), if the applicant does not have a holding account, the Registrar is not required to comply with a direction by the Minister until the applicant has opened a holding account that has been approved by the Registrar.”
- 31 Section 79 amended (Effect of new determination)** 15
In section 79(3)(b), replace “days after” with “days of”.
- 32 Section 81 amended (Entitlement to provisional allocation for eligible industrial activities)**
- (1) In section 81, item LA, replace paragraph (a)(ii) with:
“(ii) in each year after **2012**, the level of assistance from the previous year less 0.01 (the phase-out rate for a moderately emissions-intensive eligible industrial activity):” 20
- (2) In section 81, item LA, replace paragraph (b)(ii) with:
“(ii) in each year after **2012**, the level of assistance from the previous year less 0.01 (the phase-out rate for a highly emissions-intensive eligible industrial activity):” 25
- 33 Section 83 amended (Annual allocation adjustment)**
- (1) In section 83(2), item LA, replace paragraph (a)(ii) with: 30
“(ii) in each year after **2012**, the level of assistance from the previous year less 0.01 (the phase-out rate for a moderately emissions-intensive eligible industrial activity):”.

- (2) In section 83(2), item LA, replace paragraph (b)(ii) with:
“(ii) in each year after **2012**, the level of assistance from the previous year less 0.01 (the phase-out rate for a highly emissions-intensive eligible industrial activity)”.
- 34 Section 84 amended (Closing allocation adjustment)**
In section 84(4)(a), item PA, replace “chief executive” with “EPA”.
- 35 New section 84A inserted (Temporary suspension of allocation entitlement for eligible industrial activities)**
After section 84, insert:
“84A Temporary suspension of allocation entitlement for eligible industrial activities
“(1) The purpose of this section is to suspend temporarily the allocation entitlement of an eligible person in respect of an eligible industrial activity until the relevant participants face full surrender obligations.
“(2) This section applies to the allocation entitlement (including the provisional allocation entitlement) of an eligible person in respect of an eligible industrial activity calculated under sections 81 to 84.
“(3) Despite anything in this Act, an eligible person who carries out an eligible industrial activity is entitled to be allocated, in respect of an application made under section 86, only half of the person’s allocation entitlement during the period—
“(a) beginning on the day that this section comes into force; and
“(b) ending on the close of the date specified for the purpose of this section as the closure date by an Order in Council made by the Governor-General on the recommendation of the Minister.
“(4) Before the Minister may make a recommendation under **subsection (3)(b)**, the Minister must be satisfied that the relevant participants face full surrender obligations.
“(5) This section is repealed on the day after the closure date specified in an Order in Council made under **subsection (3)(b)**.”

36 Section 85 amended (Allocation of New Zealand units in relation to agriculture)

In section 85(2), item LA, replace paragraphs (a) and (b) with:

“(a) 0.9 for the first year in which surrender obligations are applicable for the activity; and 5

“(b) in each year after the first year in which surrender obligations are applicable for the activity, the level of assistance from the previous year less 0.01 (the phase-out rate for an eligible agricultural activity)”. 10

37 New sections 85A and 85B inserted

After section 85, insert:

“85A Temporary suspension of phase-out rates for assistance under sections 81, 83(2), and 85(2)

“(1) The purpose of this section is to suspend temporarily the phase-out rates for assistance under sections 81, 83(2), and 85(2) until the relevant participants face full surrender obligations. 15

“(2) Despite anything in sections 81, 83(2), and 85(2),—

“(a) the phase-out rates in those sections may not reduce the level of assistance for an eligible activity from its **2012** level or the level in the first year in which full surrender obligations are applicable for the activity (as the case may be) during the period— 20

“(i) beginning on the date that this section comes into force; and 25

“(ii) ending, in respect of either or both of those activities, on the close of the date specified for the purpose of this section as the closure date in an Order in Council made by the Governor-General on the recommendation of the Minister; and 30

“(b) the relevant phase-out rate applies for each year after the year of the closure date specified in that order.

“(3) Before the Minister may make a recommendation under **subsection (2)(a)(ii)**, the Minister must be satisfied that the relevant participants face full surrender obligations. 35

“(4) This section is repealed on the day after the closure date specified in the Order in Council made under **subsection (2)(a)(ii)** that specifies the end of all suspensions under this section.

“85B Temporary suspension of allocation entitlement for eligible agricultural activities 5

“(1) The purpose of this section is to suspend temporarily the allocation entitlement of an eligible person in respect of an eligible agricultural activity until the relevant participants face full surrender obligations.

“(2) This section applies to the allocation entitlement of an eligible person in respect of an eligible agricultural activity. 10

“(3) Despite anything in this Act, an eligible person who carries out an eligible agricultural activity is entitled to be allocated, in respect of an application made under section 86, only half of the person’s allocation entitlement during the period— 15

“(a) beginning on the date that the surrender obligations commence; and

“(b) ending on the close of the date specified for the purpose of this section as the closure date by Order in Council made by the Governor-General on the recommendation of the Minister. 20

“(4) Before the Minister may make a recommendation under **subsection (3)(b)**, the Minister must be satisfied that the relevant participants face full surrender obligations.

“(5) This section is repealed on the day after the closure date specified in an Order in Council made under **subsection (3)(b)** that specifies the end of suspensions under this section.” 25

38 Section 86 amended (Applications for allocation of New Zealand units for industry and agriculture)
Replace section 86(1) with: 30

“(1) An eligible person who wishes to be allocated New Zealand units for an eligible industrial activity or eligible agricultural activity under this subpart must, unless this subpart otherwise provides, apply to the EPA, in the period beginning on 1 January and ending with the close of 30 April in a year, for— 35

- “(a) a provisional allocation for an eligible industrial activity in respect of that year:
“(b) an allocation (other than a provisional allocation for an eligible industrial activity) in respect of the preceding year.”

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39 Section 86C amended (Reconsideration of allocation decisions)

- (1) In section 86C(5)(a), replace “90 working days after” with “60 working days of”.
(2) After section 86C(5), insert:
“(5A) Any additional allocation made under subsection (5)(b) must be excluded from the calculation of the number of New Zealand units that may be allocated for the purpose of a recommendation made under **section 30GA(1)(a)**.”

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40 Section 86F repealed (Balance of units at end of true-up period or other balance date)

Repeal section 86F.

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41 Section 87 amended (Functions of EPA)

- (1) In section 87(1)(e), after “participants”, insert “and eligible persons”.
(2) The amendment specified in **subsection (1)** applies on and after the commencement of section 87(1)(ba) of the principal Act.

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42 Section 89 amended (EPA to publish certain information)

- (1) In section 89(1)(i), after “repaid”, insert “; and”.
(2) After section 89(1)(i), insert:
“(j) the total sum of money paid to a Crown Bank Account in accordance with **section 178A(2)(a)(ii) or (iii)**; and
“(k) the total sum of money paid by the EPA in accordance with **section 178A(2)(b)(ii) or (iii)**.”
(3) Replace section 89(2) with:
“(2) The EPA—

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- “(a) must publish the information specified in subsection (1) as soon as practicable after the end of the reporting year; and
- “(b) may publish the information specified in subsection (1), in whole or in part, at any other time and in whatever manner and format that the EPA considers appropriate. 5
- “(2A) In this section, **reporting year** means a 12-month period starting on 1 July of one year and ending with the close of 30 June of the following year.”
- 43 Section 99 amended (Obligation to maintain confidentiality) 10**
- (1) In section 99(2)(b)(vi), after “under”, insert “the Convention or”.
- (2) In section 99(4)(c), replace “pre-1990 forest land” with “pre-1990 forest land, pre-1990 offsetting forest land,”. 15
- 44 Section 101 amended (Applications for warrants) 20**
- (1) In section 101(2)(a)(i), replace “14 working days after” with “10 working days of”.
- (2) In section 101(2)(a)(ii), replace “28 working days” with “20 working days”.
- 45 Section 109 amended (Making of emissions rulings)**
 In section 109(3), replace “the chief executive thinks fit” with “the EPA considers appropriate”.
- 46 Section 111 amended (Confirmation of basis of emissions rulings) 25**
 In section 111, replace “days after” with “days of”.
- 47 Section 115 amended (Appeal from decisions of EPA)**
 In section 115(1), replace “days after” with “days of”.
- 48 Section 118 amended (Submission of final emissions returns) 30**
 After section 118(1)(b), insert:

“(ba) a participant who has given the EPA notice under section 59 that the participant has ceased, or will cease, to carry out any activities for the remainder of the year and the whole of the following year:”.

- 49 Section 123 amended (Effect of amendment or assessment)** 5
- (1) In section 123(3), replace “90 days after” with “60 working days of”.
- (2) In section 123(4), replace “days after” with “days of”.
- (3) In section 123(6), replace “90 days after” with “60 working days of”. 10
- (4) In section 123(8), replace “section 124(6)” with “section 124(3)”.
- 50 Section 124 amended (Reimbursement of units by EPA)**
- In section 124(1), after “138(2)”, insert “**186H(4)**”.
- 51 Section 129 amended (Strict liability offences)** 15
- Replace the heading to section 129 with “**Offences in relation to failure to comply with various provisions**”.
- 52 New section 134A inserted (Penalty for failing to surrender or repay units when required by notice given under section 134(3))** 20
- After section 134, insert:
- “134A Penalty for failing to surrender or repay units when required by notice given under section 134(3)**
- “(1) This section applies if a person fails to surrender or repay units when required by a notice given under section 134(3). 25
- “(2) If this section applies, the person is liable to—
- “(a) surrender or repay the units as required under the notice; and
- “(b) pay to the EPA an excess emissions penalty of \$30 for each unit that the person has failed to surrender or repay by the due date specified in the notice given under section 134(3). 30
- “(3) If a person is liable to an excess emissions penalty under **subsection (2)**, the EPA must give a notice to the person that—

- “(a) refers to the person’s failure to surrender or repay units by the due date specified in the notice given under section 134(3); and
 - “(b) sets out the number of units required to be surrendered or repaid; and 5
 - “(c) sets out the amount of the further excess emissions penalty that the person is liable to surrender or repay under this section (if any); and
 - “(d) requires the person to surrender or repay the units specified in **paragraph (b)**, and pay the penalty specified in **paragraph (c)** to the EPA, within 20 working days of the date of the notice; and 10
 - “(e) advises that, unless the units are surrendered or repaid and the further penalty is paid in full by the due date, interest on the amount of the further penalty will accrue in accordance with section 137. 15
- “(4) To avoid doubt, any liability to surrender or repay units or to pay a penalty under **subsection (2)** is additional to, and does not affect, the liability of a person to surrender or repay units under any other section of this Act or to pay a penalty under a penalty notice given by the EPA under section 134. 20
- “(5) The amount of the excess emissions penalty and any interest that accrues on that penalty constitute a debt due to the Crown and is recoverable by the EPA in a court of competent jurisdiction.” 25

53 Section 135 amended (Reductions in penalty)

- (1) After section 135(1), insert:
 - “(1A) The EPA may reduce the excess emissions penalty imposed by **section 134A(2)(b)** for a liability incurred under section 134(2)(b)(i) or (iii) by up to 100% if the person voluntarily discloses the failure to surrender or repay units before receiving a penalty notice under **section 134A**.” 30
- (2) In section 135(2), after “section 134(2)(b)(ii)”, insert “or **134A(2)(b)** for a liability incurred under section 134(2)(b)(ii)”. 35

- 54 Section 136 amended (Additional penalty for knowing failure to comply)**
- (1) In section 136(3)(b), replace “90 days after” with “60 working days of”.
- (2) In section 136(4), after “section 134”, insert “or **134A**”. 5
- 55 Section 137 amended (Interest for late payment)**
- (1) In section 137(1)(a)(i), after “section 134(2)(b)(i) or (iii)”, insert “or **134A(2)(b)**”.
- (2) In section 137(1)(a)(ii), after “section 134(2)(b)(ii)”, insert “or **134A(2)(b)**”. 10
- 56 Section 138 amended (Obligation to pay penalty not suspended by appeal)**
- In section 138(1), after “section 134,”, insert “**134A**,”.
- 57 Section 138A amended (Penalties to be paid into Crown account)** 15
- In section 138A, after “section 134,”, insert “**134A**,”.
- 58 Section 142 amended (Limitation period for commencement of proceedings)**
- (1) In section 142(a), replace “132(a),” with “132(1)(a),”.
- (2) In section 142(b), replace “132(c)” with “132(1)(c)”. 20
- 59 Section 144 amended (Request for review of decisions)**
- In section 144(1), replace “within the period of 30 days after” with “within 20 working days of”.
- 61 Section 155 amended (Ceasing to be member of consolidated group)** 25
- In section 155(3)(b), replace “days after” with “days of”.
- 62 Section 159 replaced (Chief executive must surrender or repay units for person who is in default or insolvent)**
- Replace section 159 with:

“159 Recovery of costs

- “(1) This section applies if a person—
- “(a) is required to surrender or repay units and does not do so, or does not surrender or repay the total number of units required to be surrendered or repaid, within 1 year of the date of a penalty notice given under section 134 or 136 in relation to the units; or
 - “(b) is a participant and enters into an insolvency process.
- “(2) If this section applies, the chief executive may seek to recover from the person, in a court of competent jurisdiction,—
- “(a) the cost of the units owed by the person as a debt; and
 - “(b) the cost of the units that the insolvent participant would be required to surrender or repay under any other provision of this Act; and
 - “(c) any costs associated with bringing and carrying out the action to recover the debt.
- “(3) For the purposes of **subsection (2)(a)**, the following formula must be used to calculate the total cost of the units:
- $$A = B \times C$$
- where—
- A is the total cost of the units
 - B is the number of units
 - C is the price of a New Zealand unit on the date that is 1 year after the date that the penalty notice is given under section 134 or 136 for the units.
- “(4) Any administrative costs incurred in the recovery of costs under **subsection (2)** and any penalties incurred under section 134, **134A**, or 136 constitute a debt to the Crown and are recoverable by the chief executive in a court of competent jurisdiction.
- “(5) For the purposes of this section, **insolvency process** means receivership under the Receiverships Act 1993, liquidation under the Companies Act 1993, or bankruptcy under the Insolvency Act 2006.”

63 Section 160 replaced (Reviews of operation of emissions trading scheme)

Replace section 160 with:

“160 Review of operation of emissions trading scheme

- “(1) The Minister may, at any time, initiate a review of the operation and effectiveness of the emissions trading scheme established by this Act.
- “(2) A review may be undertaken by any method the Minister considers appropriate. 5
- “(3) Without limiting the Minister’s discretion under **subsections (1) and (2)**, the Minister may appoint a review panel—
- “(a) to conduct a review under **subsection (1)**; and
 - “(b) to report in accordance with the terms of reference. 10
- “(4) If the Minister appoints a panel, the Minister must—
- “(a) specify the written terms of reference for the review; and
 - “(b) publish the report of the panel; and
 - “(c) present a copy of the report to the House of Representatives. 15
- “(5) If the Minister initiates a review but does not appoint a panel, the Minister must—
- “(a) consult persons (or their representatives) who appear to the Minister likely to have an interest in the review; and 20
 - “(b) consult representatives of iwi and Māori who appear to the Minister to be likely to have an interest in the review; and
 - “(c) specify the written terms of reference for the review; and 25
 - “(d) establish a procedure that the Minister is satisfied is appropriate, fair in the circumstances, and in accordance with the terms of reference.”

64 Section 161 amended (Appointment and conduct of review panel) 30

- (1) In section 161(1), replace “When appointing members to” with “If the Minister appoints”.
- (2) Replace section 161(3) with:
- “(3) A review panel must complete a draft report on the review and provide the report to the Minister by the date set out in the terms of reference.” 35

- (3) In section 161(4)(b), replace “on which the review is required to be completed under section 160” with “set out in the terms of reference”.

65 Section 161A amended (Regulations in relation to eligible industrial activities) 5

Replace section 161A(3) with:

- “(3) The Minister may recommend that regulations be made under subsection (1)(a) that prescribe an activity as an eligible industrial activity if the Minister is satisfied that the activity—

“(a) is— 10

“(i) moderately emissions-intensive or highly emissions-intensive; and

“(ii) trade-exposed; or

“(b) is an Australian eligible industrial activity.”

66 Section 161B amended (Australian eligible industrial activities) 15

- (1) Repeal section 161B(1).

- (2) In section 161B(2), replace “If an activity is treated as meeting the criteria specified in section 161A(3)(a) because it is an Australian eligible industrial activity, any regulations that prescribe that activity as an eligible industrial activity” with “Any regulations that prescribe an activity as an eligible industrial activity under **section 161A(3)(b)**”. 20

67 Section 161E amended (Requirements in respect of notice given under section 161D) 25

- (1) In section 161E(2)(a), replace “section 161D(1)(e)(ii) and (iii)” with “section 161D(1)(e)(i)(B) and (C)”.

- (2) After section 161E(2)(a)(i)(C), insert:

“(D) the direct use of any liquid fossil fuel in stationary equipment; and 30

“(E) fugitive coal seam gas from coal that is used as part of, or to generate steam that is used as part of, the activity; and”.

- 68 Section 163 amended (Regulations relating to methodologies and verifiers)**
- (1) In section 163(1)(ab), after “listed in Part 1”, insert “or **1A**”.
- (2) Replace section 163(1)(d) with:
- “(d) authorising the EPA to issue guidelines or standards by notice in the *Gazette* in relation to—
- “(i) the matters prescribed under paragraph (a); and
- “(ii) the method and format for determining the spatial extent of an area of forest land; and”.
- (3) In section 163(6), replace “chief executive” with “EPA”.
- (4) After section 163(6), insert:
- “(7) A person who has complied with guidelines or standards issued by the EPA in regulations made under **subsection (1)(d)** is, in the absence of proof to the contrary, presumed to have complied with the relevant requirements specified in regulations corresponding to those guidelines or standards.”
- 69 Section 165 repealed (Regulations relating to offsetting of pre-1990 forest land)**
- Repeal section 165 (inserted by section 50 of the Climate Change Response (Emissions Trading) Amendment Act 2008).
- 70 Section 166 amended (Procedure for regulations relating to methodologies, verification, unique emissions factors, and offsetting)**
- (1) In section 166(1), replace “or 165” with “or **186F**”.
- (2) In section 166(4), replace “or 165” with “or **186F**”.
- (3) After section 166(4), insert:
- “(5) Subsection (3) does not apply to any regulations made under sections 163 (in relation to the forestry sector) and **186F** on or before **1 January 2013**.”
- 71 Section 168 amended (Other regulations)**
- (1) In section 168(1)(d), delete “for the purposes of section 184”.
- (2) Replace section 168(1)(n) with:

- “(n) prescribing criteria for registering as a participant in relation to an activity listed in—
 - “(i) subpart 1 of Part 2 of Schedule 4; and
 - “(ii) subpart 2 of Part 2 of Schedule 4, which may include criteria for the type of carbon dioxide capture and storage in respect of which a person may register as a participant; and
 - “(iii) subpart 3 of Part 2 of Schedule 4; and”.

72 Section 169 amended (Incorporation by reference in regulations made under section 163, 164, 165, 167, or 168) 10

- (1) In the heading to section 169, delete “165,”.
- (2) In section 169(1), delete “165,”.

73 New sections 178A to 178C inserted

After section 178, insert:

“178A Option to pay money instead of surrendering units to cover emissions 15

- “(1) This section applies if—
 - “(a) a person is required to surrender or repay units—
 - “(i) under section 65(4), 118(5), 189(8), or 193 for emissions from any activity; or 20
 - “(iii) under section **183A(2)(b)**, 187, or 191; or
 - “(b) the EPA is required under section 123(4), **186H**, 187, 189(7)(d), or 191 to arrange for the reimbursement of units—
 - “(ii) for emissions from any activity; or 25
 - “(iv) because approval is revoked or the offsetting forest land has not become pre-1990 offsetting forest land before deforestation of the relevant pre-1990 forest land.
- “(2) Despite anything in this Act, if this section applies, a person may satisfy the person’s obligation to surrender, repay, or reimburse units,— 30
 - “(a) in the case of a person other than the EPA, by—
 - “(i) surrendering or repaying the units in accordance with section 65(4), 118(5), **183A(2)(b)**, **186H**, 187, 189(8), 191, or 193, as applicable; or 35

- “(ii) paying a sum of \$25 for each unit that the person is liable to surrender or repay, into a Crown Bank Account, by the date or within the period by which the units are required to be surrendered or repaid; or 5
- “(iii) a combination of the actions provided for in **sub-paragraphs (i) and (ii)**; or
- “(b) in the case of the EPA, by—
- “(i) reimbursing units to a person in accordance with the procedure specified in section 124; or 10
- “(ii) paying a sum of \$25 for each unit into a bank account designated by the person; or
- “(iii) a combination of the actions provided for in **sub-paragraphs (i) and (ii)**.
- “(3) For the purposes of **subsection (2)(a)(ii) and (iii)**, a person’s obligation to surrender units or repay units is only satisfied when the funds paid into a Crown Bank Account are cleared. 15
- “(4) For the purposes of **subsection (3)** and **section 178B(1)**, funds paid into a Crown Bank Account are to be treated as cleared when it is no longer possible to reverse the payment and the funds are available for use by the Crown. 20
- “**178B Issuing New Zealand units to meet surrender obligations**
- “(1) If, in accordance with **section 178A(2)(a)(ii) or (iii)**, a person pays a sum of \$25 instead of surrendering a unit that the person is liable to surrender, the Registrar must, when the funds are cleared,— 25
- “(a) issue a number of New Zealand units into a Crown holding account equal to the number of units in respect of which the person has paid a sum of \$25 for each unit; and 30
- “(b) transfer the New Zealand units into the person’s holding account held for the purpose of section 61(1); and
- “(c) immediately following the transfer under **paragraph (b)**, transfer the New Zealand units to a surrender account designated by the EPA. 35
- “(2) The Registrar may, for the purposes of **subsection (1)(a)**, issue a number of New Zealand units equal to the number of

units in respect of which 1 or more persons have paid a sum of \$25 for each unit under **section 178A(2)(a)(ii) or (iii)**.

“(3) If the EPA is required to reimburse a person units under section 123(4), **186H**, or 189(7)(d) and has satisfied its obligation to do so by paying to the person a sum of \$25 for each unit in accordance with **section 178A(2)(b)(ii) or (iii)**, then the Registrar must—

“(a) transfer from the appropriate surrender account to the person’s holding account held for the purpose of section 61(1) a number of New Zealand units equal to the number of units for which the EPA paid the person a sum of \$25 for each unit; and

“(b) immediately following the transfer under **paragraph (a)**, transfer the New Zealand units from the person’s holding account to a cancellation account.

“(4) For the avoidance of doubt, section 68 does not apply in respect of any New Zealand units issued under this section.

“(5) If **subsection (1)** applies, this Act applies with any necessary modification as if the payment of \$25 for a unit by a person and the transfer of a unit to a surrender account by the Registrar under this section were a surrender of a unit by the person.

“(6) Despite anything in section 18CA(4), a New Zealand unit that is transferred to a surrender account under **subsection (1)(c)** may be further transferred in accordance with **subsection (3)(a)**.

“178C Prohibition on ability to export New Zealand units

“(1) Despite anything in this Act,—

“(a) an account holder may not apply to the Registrar under section 30E(1)(a) to convert a New Zealand unit held by that person into a designated assigned amount unit for the purposes of transferring that assigned amount unit to an account in an overseas registry; and

“(b) the Registrar must not transfer to an account in an overseas registry under section 18C—

“(i) New Zealand units; or

“(ii) designated assigned amount units that have been converted from New Zealand units under section 30E(3) before the commencement of this section.

- “(2) This section does not apply to New Zealand units—
- “(a) in respect of activities listed in Part 1 of Schedule 4; or
 - “(b) transferred in accordance with a determination of the Minister under section 77 or 78 that relates to an allocation under the pre-1990 forest land allocation plan; or 5
 - “(c) received under the Forests (Permanent Forest Sink) Regulations 2007.”

74 Section 179 amended (Forest land to be treated as deforested in certain cases)

Replace section 179(1) with: 10

- “(1) Without limiting paragraph (a) of the definition of deforest in section 4(1), a hectare of forest land must be treated as deforested for the purposes of this Act if the forest species on that hectare have been cleared and,—
- “(a) 4 years after clearing, the hectare has not— 15
 - “(i) been replanted with at least 500 stems of forest species; or
 - “(ii) regenerated a cover of at least 500 stems of exotic forest species; or
 - “(iii) been replanted with at least 100 stems of willows 20 or poplars in a manner consistent with managing soil erosion; or
 - “(iv) regenerated predominantly indigenous forest species growing in a manner in which the hectare is likely to be forest land 10 years after the 25 hectare was cleared; or
 - “(b) 10 years after clearing,—
 - “(i) predominantly exotic forest species are growing, but that hectare does not have tree crown cover of at least 30% from trees that have reached 5 30 metres in height; or
 - “(ii) predominantly indigenous forest species are growing, but that hectare is not forest land; or
 - “(c) 20 years after clearing, predominantly indigenous forest species are growing, but that hectare does not have tree 35 crown cover of at least 30% from trees that have reached 5 metres in height.

“(1A) **Subsection (1)(a)(iii)** applies only if the EPA is satisfied that the relevant local authority has determined that the soil erosion risk of the land is at least moderate.”

75 New section 179A inserted (Forest land may not be treated as deforested in certain cases) 5

After section 179, insert:

“179A Forest land may not be treated as deforested in certain cases

“(1) Despite section 179 and the definition of deforest in section 4(1),— 10

“(a) in the case of pre-1990 forest land, pre-1990 forest land that is cleared may not be treated as deforested for the purposes of this Act if the cleared land is exempt land or—

“(i) is contiguous with the edge of pre-1990 forest land that existed on 31 December 2007; and 15

“(ii) is an area that is less than 1 hectare or that is less than 30 metres wide at its widest point; and

“(iii) is required to be or remain cleared to implement New Zealand’s best practice forest management; 20 and

“(iv) is used only for the purpose of implementing New Zealand’s best practice forest management:

“(b) in the case of pre-1990 forest land that is the subject of an offsetting forest land application that the EPA has approved under **section 186B**, the pre-1990 forest land that is cleared may not be treated as deforested if cleared,— 25

“(i) in the case where the land is converted to a use other than forest land (for example, dairy), in the period— 30

“(A) beginning on the date that the approval is given; and

“(B) ending with the earlier of 2 years after the date that the approval was given or 4 years after the date that the pre-1990 forest land was cleared; or 35

- “(ii) in the case where the land is not converted to another land use and remains forest land, in the period—
- “(A) beginning on the date that the pre-1990 forest land was cleared; and 5
- “(B) ending 4 years after the date that the pre-1990 forest land was cleared:
- “(c) in the case of post-1989 forest land, the post-1989 forest land that is cleared may not be treated as deforested if the cleared land— 10
- “(i) is contiguous with the edge of post-1989 forest land that existed on the date of registration; and
- “(ii) is an area that is less than 1 hectare or that is less than 30 metres wide at its widest point; and
- “(iii) is required to be or remain cleared to implement New Zealand’s best practice forest management; and 15
- “(iv) is used only for the purpose of implementing New Zealand’s best practice forest management.
- “(2) **Subsection (1)(b)** does not apply if the EPA revokes its approval of an offsetting forest land application under **section 186G(1)**. 20
- “(3) This section applies to land that was cleared before, on, or after the commencement of this section.”
- 75A Section 180 amended (Participant in respect of pre-1990 forest land) 25**
In section 180(1)(a), after “was vested”, insert “by the landowner”.
- 76 Section 181 amended (When deforestation to be treated as occurring in respect of pre-1990 forest land) 30**
After section 181(4), insert:
- “(5) This section does not apply to pre-1990 forest land that is the subject of an offsetting forest land application that the EPA has approved under **section 186B**.”

- 77 Section 182 repealed (Offsetting in relation to pre-1990 forest land)**
Repeal section 182 (inserted by section 50 of the Climate Change Response (Emissions Trading) Amendment Act 2008). 5
- 78 Section 183 amended (Applications for exemption for land holdings of less than 50 hectares of pre-1990 forest land)**
- (1) Replace section 183(3)(e) with:
- “(e) be accompanied by a statutory declaration,—
- “(i) in the case of land owned by a sole professional trustee or owned by professional trustees only, from the trustee of the trust that is the subject of the exemption application stating that the total of pre-1990 forest land held in the trust on 1 September 2007— 10
- “(A) was less than 50 hectares; and 15
- “(B) was owned by a sole professional trustee or owned by professional trustees only:
- “(ii) in any other case, from each person who owned the land on 1 September 2007 (other than a joint tenant who is a professional trustee) stating that the person, together with any persons associated with that person, owned less than a total of 50 hectares of pre-1990 forest land on 1 September 2007; and” 20 25
- (2) In section 183(5), replace “his or her” with “its”.
- (3) In section 183(6)(c), after “2007”, insert “; and”.
- (4) After section 183(6)(c), insert:
- “(d) if land was owned by a sole professional trustee or owned by professional trustees only, the total pre-1990 forest land held in the trust on 1 September 2007 was less than 50 hectares.” 30
- (5) In section 183(7), replace the definition of **professional trustee** with:

“**professional trustee**—

“(a) means a trustee whose profession, employment, or business is or includes acting as a trustee or investing money on behalf of others; and

“(b) includes a trustee in whom property is vested under Te Ture Whenua Maori Act 1993.” 5

78A New section 183A inserted (Certain applications not otherwise permitted by section 183)

After section 183, insert:

“183A Certain applications not otherwise permitted by section 183” 10

“(1) Despite section 183(2)(c) and (3)(a), a person may make an application under section 183 by 31 December 2013 if—

“(a) the area concerned was owned, as at 1 September 2007, by a sole professional trustee or by professional trustees only; and 15

“(b) an allocation of units has been made before the commencement of the **Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012** in respect of the area under an allocation plan under section 72. 20

“(2) If the EPA proposes to accept the application, the EPA must notify the applicant that—

“(a) it proposes to accept the application; but

“(b) the applicant must first, within 30 working days after receiving the notice, surrender or repay to the Crown holding account specified in the notice the number of New Zealand units specified in the notice; and 25

“(c) if the units are not surrendered or repaid in accordance with **paragraph (b)**, then the application will be declined. 30

“(3) The units referred to in **subsection (2)** must be the same number of units that have been allocated and transferred under an allocation plan under section 72 in relation to the land concerned. 35

“(4) The EPA must,—

- “(a) accept the application and declare the area concerned to be exempt land if, by the expiry of the 30 days, the units have been surrendered or repaid; or
 - “(b) decline the application if, by the expiry of the 30 days, the units have not been surrendered or repaid. 5
- “(5) To avoid doubt,—
- “(a) section 183 (as amended by the **Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012**) otherwise applies to an application permitted by this section, but subject to the modifications made by this section; and 10
 - “(b) if an application is granted and an area is declared to be exempt land, the entitlement to units under the allocation plan in respect of the land is cancelled.”
- 79 Section 184 amended (Exemptions for deforestation of land with tree weeds) 15**
 Repeal section 184(9).
- 80 Section 186 amended (Methodology for pre-1990 forest land) 20**
- (1) In the heading to section 186, after “land”, insert “cleared in 8 years or less”.
 - (2) In section 186(2)(a), after “9 years”, insert “(excluding any period in which the pre-1990 forest land is temporarily unstocked)”.
- 81 New sections 186A to 186J and cross-heading inserted 25**
 After section 186, insert:
- “Pre-1990 offsetting forest land*
- “186A Persons who own pre-1990 forest land may submit offsetting forest land applications to EPA**
- “(1) A person who owns pre-1990 forest land may submit an offsetting forest land application to the EPA if that forest land— 30
 - “(a) was first planted before 1 January 1990; or
 - “(b) was harvested and re-established after 1 January 1960.

- “(2) If the proposed offsetting forest land and the pre-1990 forest land are owned by the same person, the application must be submitted by that person.
- “(3) In the case where the proposed offsetting forest land and the pre-1990 forest land are owned by different persons, the application must be submitted jointly by those persons. 5
- “(4) To avoid doubt, any pre-1990 forest land cleared, but not deforested, before the commencement of this section is eligible to be offset if that land meets the requirements specified in **subsection (1)**. 10

“**186B Criteria for approving offsetting forest land applications**

- “(1) The EPA must approve land as offsetting forest land if—
- “(a) the land—
- “(i) is the subject of an offsetting forest land application that— 15
- “(A) is in the prescribed form, and accompanied by the payment of any prescribed fee; and
- “(B) complies with any relevant regulations made under **section 186F**; and
- “(C) is accompanied by any other relevant information that the EPA may require; and 20
- “(ii) was—
- “(A) not forest land on or after **31 December 1989**; or
- “(B) forest land on 31 December 1989 that was 25
deforested between 1 January 1990 and 31 December 2007 and is (at the time the offsetting forest application is made) not forest land; or
- “(C) pre-1990 forest land (other than exempt 30
land) that was deforested on or after 1 January 2008 and any liability in respect of it to surrender units in relation to the activity listed in Part 1 of Schedule 3 has been satisfied, and is (at the time the 35
offsetting forest application is made) not forest land; or

- “(D) pre-1990 forest land (other than exempt land) that was deforested on or after 1 January 2013 and offset by pre-1990 offsetting forest land, and is (at the time the offsetting forest application is made) not forest land; or 5
- “(E) exempt land that has been deforested and in respect of which the number of units that would have been required to be surrendered in relation to the activity in **Part 1A** of Schedule 3 had the land not been exempt land has been surrendered, and is (at the time the offsetting forest application is made) not forest land; and 10
- “(b) the land is land— 15
 - “(i) that has a total area (whether or not contiguous) that is equal to or greater than the total area of the pre-1990 forest land that is to be offset by that land (whether or not contiguous); and
 - “(ii) in which each individual parcel that makes up the total area of the offsetting forest land is at least 1 hectare with an average width of at least 30 metres; and 20
- “(c) the EPA is satisfied that the land is likely to—
 - “(i) achieve carbon equivalence with the pre-1990 forest land that is to be offset by that land within the usual rotation period for forest species of the pre-1990 forest land; and 25
 - “(ii) become forest land before the pre-1990 forest land that is to be offset by that land is deforested; and 30
- “(d) any other requirements with respect to offsetting specified in this Act or regulations made under this Act are satisfied.
- “(2) The EPA may decline any application that does not meet all or any of the requirements specified in **subsection (1)**. 35

“186C Conditions applicable to offsetting forest land

“(1) If the EPA approves an offsetting forest land application, the following conditions apply:

“(a) the offsetting forest land must—

“(i) become forest land before the relevant pre-1990 forest land is deforested; and 5

“(ii) be established by direct planting activities, including direct seeding but excluding natural forest regeneration; and

“(iii) be established on the land specified in the application approved by the EPA; and 10

“(iv) achieve carbon equivalence with the relevant pre-1990 forest land:

“(b) the owner of the pre-1990 forest land must surrender or repay units if required to do so under **section 186H**: 15

“(c) any relevant conditions prescribed by regulations made under **section 186F** must be satisfied.

“(2) **Subsection (1)(a)(i)** is subject to **section 179A(1)(b)**.

“186D Requirements relating to offsetting forest land

“(1) A person who owns pre-1990 forest land must submit a declaration to the EPA in the prescribed form, before the end of the relevant period specified in **section 179A(1)(b)**, stating that the offsetting forest land has become forest land. 20

“(2) If the EPA is not satisfied that the land subject to an approved offsetting forest land application has become forest land by the time that the relevant pre-1990 forest land is deforested,— 25

“(a) the application is to be treated as revoked under **section 186G**; and

“(b) the person who owns the pre-1990 forest land must surrender units for the deforested pre-1990 forest land. 30

“(3) If the EPA is satisfied that the offsetting forest land has become forest land by the time that the pre-1990 forest land is deforested, the EPA must, on a register kept for the purposes of this section, note—

“(a) that the offsetting forest land is pre-1990 offsetting forest land; and 35

“(b) any conditions placed on that forest land under **section 186C or 186F**; and

“(c) the emissions for the relevant pre-1990 forest land.

“(6) The EPA must, upon written request by the person who owns or owned (or who is a prospective transferee of) the relevant pre-1990 offsetting forest land or the relevant pre-1990 forest land, provide a statement containing the information specified in **subsection (3)** to the person or prospective transferee (as the case may be). 5

“**186E Deforesting pre-1990 offsetting forest land before usual rotation period of forest species on pre-1990 forest land**

“(1) If the owner of pre-1990 offsetting forest land carries out an activity in **Part 1A** of Schedule 3 before the usual rotation period for forest species on the relevant pre-1990 forest land is completed, the owner must surrender units equivalent to the emissions for the relevant pre-1990 forest land. 10

“(2) If **subsection (1)** applies, the EPA must remove the pre-1990 offsetting forest land from the register specified in **section 186D(3)**. 15

“**186F Regulations relating to offsetting**

The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes: 20

“(a) prescribing the usual rotation period for a forest species:

“(b) prescribing any conditions that land that is subject to an offsetting forest land application must meet—

“(i) before the EPA may approve the application; and 25

“(ii) after the EPA has approved the application:

“(c) prescribing the methodology for determining and calculating carbon equivalence:

“(d) providing for any other matters contemplated by **sections 186B and 186C**, necessary for their administration, or necessary for giving them full effect. 30

“**186G EPA may revoke approval in certain circumstances**

“(1) The EPA may, in relation to a person specified in **section 186A(2) or (3)**, revoke any approval it has given under **section 186B** if— 35

“(a) the person fails to comply with **section 186C**; and

- “(b) the EPA has not noted on the register specified in **section 186D(3)** that the offsetting forest land is pre-1990 offsetting forest land.
- “(2) If the EPA revokes an approval, the provisions of this Act, other than **section 179A(1)(b)**, apply to the relevant pre-1990 forest land as if the relevant offsetting forest application had not been made. 5
- “**186H Treatment of allocations in respect of pre-1990 forest land that is offset**
- “(1) This section applies to any owner of pre-1990 forest land— 10
- “(a) that was the subject of an offsetting forest land application approved under **section 186B**; and
- “(b) to which an allocation was made under an allocation plan (before or after the commencement of this section).
- “(2) If this section applies, the owner of the pre-1990 forest land must, within 30 working days of the date of notice given by the EPA,— 15
- “(a) open a holding account under section 18A that has been approved by the Registrar if the owner does not have one; and 20
- “(b) surrender or repay New Zealand units equivalent to the portion of New Zealand units that are allocated, as part of the second tranche, to the pre-1990 forest land that is offset by transferring them to a Crown holding account (whether or not the allocation was actually transferred when allocated). 25
- “(3) The notice referred to in **subsection (2)** must specify—
- “(a) the number of New Zealand units that must be repaid; and
- “(b) the Crown holding account to which the units must be transferred. 30
- “(4) If the owner of the pre-1990 forest land complies with **subsection (2)**, but approval is revoked under **section 186G** or treated as revoked under **section 186D(2)(a)**, the EPA must, in accordance with section 124, reimburse the owner for any New Zealand units that the owner has surrendered or repaid under **subsection (2)**. 35

- “(4A) The EPA must, upon written request by a person who owns or owned (or is a prospective transferee of) pre-1990 forest land, provide a statement to the person or prospective transferee (as the case may be) about an allocation (if any) made under an allocation plan. 5
- “(5) For the purposes of **subsection (2), second tranche**, in relation to an allocation, means the New Zealand units that are allocated under section 72(3)(a)(ii), (b)(ii), or (c)(ii) to a person under an allocation plan in respect of the pre-1990 forest land on or after **1 January 2013**. 10
- “**186I Participant in respect of pre-1990 offsetting forest land**
If an activity listed in **Part 1A** of Schedule 3 is carried out, the landowner of the pre-1990 offsetting forest land is to be treated as the person carrying out the activity.
- “**186J Methodology for pre-1990 offsetting forest land cleared after usual rotation period is completed** 15
- “(1) **Subsection (2)** applies where the trees are cleared from pre-1990 offsetting forest land by a person carrying out the activity in **Part 1A** of Schedule 3 after the usual rotation period is completed are 8 years or younger. 20
- “(2) If this subsection applies, the participant must,—
- “(a) for the purposes of sections 62(b) and 65(2)(b), apply any prescribed methodology and calculate and record the emissions from the activity as if the trees cleared from the pre-1990 offsetting forest land were trees of the age and species of the oldest trees of the predominant species (as determined by regulations made under section 163 or **186F**) cleared from the pre-1990 offsetting forest land during the previous 9 years (excluding any period in which the pre-1990 forest land is temporarily unstocked); and 25
- “(b) surrender units under this Act based on emissions calculated and recorded in accordance with **paragraph (a)**. 30
- “(3) A methodology for calculating emissions from the activity in **Part 1A** of Schedule 3 prescribed in regulations under section 163 or **186F** must relate to the trees that are cleared from the 35

pre-1990 offsetting forest land as part of the deforestation activity.”

82 Section 187 amended (Conditions on registration as participant in respect of certain activities relating to post-1989 forest land)

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After section 187(4), insert:

“(5) A person may not be registered as a participant under section 57 in respect of carrying out an activity listed in Part 1 of Schedule 4 in relation to post-1989 forest land where the forest species on the land is predominantly naturally regenerated tree weeds unless the EPA is satisfied that the risk of tree weed spread from the land that is the subject of the application for registration is low.

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“(6) **Subsection (5)** does not apply to any person who has registered as a participant before the commencement of this section.”

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83 New section 187A inserted (EPA to give public notice of criteria for assessing risk of tree weed spread)

After section 187, insert:

“187A EPA to give public notice of criteria for assessing risk of tree weed spread

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The EPA must give public notice of the criteria for assessing the risk of tree weed spread from land that is the subject of an application for registration under section 57.”

84 Section 188 amended (Registration as participant in respect of post-1989 forest land)

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(1) Replace section 188(3)(b) with:

“(b) must, as soon as practicable, notify the EPA if—

“(i) the person ceases to carry out the activity in respect of a carbon accounting area or any land in a carbon accounting area in respect of which the person is recorded as a participant; or

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“(ii) the post-1989 forest land in respect of which the person carries out the activity, or any part of the land in which the person carries out the activity,

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is affected by a natural event that permanently prevents re-establishing a forest on that land.”

(2) After section 188(7), insert:

“(7A) If the EPA is notified under **subsection (3)(b)(ii)**, the EPA must, if satisfied that the post-1989 forest land is affected by a natural event that permanently prevents re-establishing a forest on that land, comply with the requirements specified in subsection (7)(b)(i) to (iii).”

85 New section 188A inserted (Person ceases to be participant in respect of post-1989 forest land if natural event permanently prevents re-establishing forest on that land) 10

After section 188, insert:

“188A Person ceases to be participant in respect of post-1989 forest land if natural event permanently prevents re-establishing forest on that land 15

If post-1989 forest land is affected by a natural event that permanently prevents re-establishing a forest on that land,—

“(a) a person registered as a participant in respect of an activity listed in Part 1 of Schedule 4 ceases to be a participant in respect of the affected carbon accounting area or affected land in that carbon accounting area; and 20

“(b) the person is to be treated as having ceased to carry out the activity listed in Part 1 of Schedule 4 when given notice by the EPA under section 188(7)(b)(iii).”

86 Section 189 amended (Emissions returns for post-1989 forest land activities) 25

(1) In section 189(2)(d)(iii), replace “days after” with “days of”.

(2) In section 189(3), replace “31 March” with “30 June”.

(3) In section 189(4), replace “3 months” with “6 months”.

(4) After section 189(8), insert: 30

“(8A) Despite subsection (8)(d), a person who submits an emissions return under this section that shows a liability or a net liability is under no obligation to surrender units if—

“(a) the emissions return is in respect of post-1989 forest land; and 35

“(b) that land is affected by a natural event that permanently prevents re-establishing a forest on that land.”

- 87 Section 191 amended (Ceasing to be registered as participant in respect of post-1989 forest land)**
Replace section 191(6) with: 5
- “(6) Section 189(8) applies, with any necessary modifications, to a person who—
- “(a) submits an emissions return under this section; or
 - “(b) submits an emissions return in respect of post-1989 forest land that is affected by a natural event that permanently prevents re-establishing a forest on that land because subsection (1)(a)(ii) or (iii) applies.” 10
- 88 Section 195 amended (Notification of status of forest land)**
In section 195(1), after “pre-1990 forest land,” insert “pre-1990 offsetting forest land, or”. 15
- 89 Section 198 amended (Registration as participant by purchasers of jet fuel)**
In the heading to section 198, replace “jet” with “obligation”.
- 90 Section 199 amended (Historical information sufficient to satisfy EPA)** 20
- (1) In section 199(1), delete “jet”.
 - (2) In section 199(2), replace “him or herself” with “itself”.
- 91 Section 200 amended (Effect of purchasing less than the threshold level of obligation jet fuel)**
- (1) In the heading to section 200, delete “the” and “jet”. 25
 - (2) In section 200, delete “jet”.
- 92 Section 201 amended (Effect of registration by purchasers of jet fuel)**
- (1) In the heading to section 201, replace “jet” with “obligation”.
 - (2) In section 201, delete “jet”. 30

- 93 Section 204 amended (Participant with respect to mining coal or natural gas)**
In section 204(2)(a), replace “any Act” with “the Crown Minerals Act 1991”.
- 94 Section 210 amended (Historical information sufficient to satisfy EPA)** 5
(1) In section 210(2), replace “himself or herself” with “itself”.
(2) In section 210(3), replace “him or herself” with “itself”.
- 95 Section 217 amended (Transitional provision for penalties)**
(1) Replace section 217(1)(d) with: 10
“(d) subpart 1 or 3 of Part 5 of Schedule 3 that relates to the period—
“(i) beginning on the date that surrender obligations for agriculture start; and
“(ii) ending on the close of **31 December** of the 15
year in which surrender obligations for agriculture started; or”.
- (2) In section 217(2)(b)(ii), after “section 134(2)(b)(ii)”, insert “or **134A(2)(b)**”.
- (3) In section 217(2)(c), replace “section 134” with “section 134, **20**
134A,”.
- 96 Section 219 amended (Transitional provision for mandatory reporting by certain participants)**
Replace section 219(1)(a)(ii) with:
“(ii) subpart 1 or 3 of Part 5 of Schedule 3 in the 25
period—
“(A) beginning on **1 January 2012**; and
“(B) ending on the date that surrender obligations for agriculture start:”.
- 97 Sections 222A to 222G repealed** 30
Repeal sections 222A to 222G.

- 98 Part 6 heading amended**
In the Part 6 heading, replace “**Other matters**” with “**Targets**”.
- 99 Section 224 amended (Gazetting of targets)**
In section 224(4), replace “subsection (1)” with “subsection (3)(a)”.
- 100 New Part 7 inserted**
After section 225, insert:
- “Part 7**
- “Synthetic greenhouse gas levy** 10
- “226 Overview of functions and responsibilities of EPA and agencies under this Part, Customs and Excise Act 1996, and Land Transport Act 1998**
- “(1)** This section is a guide to the functions and responsibilities of the EPA and the agencies in relation to the synthetic greenhouse gas levy, but it does not affect the interpretation or the application of the provisions of this Part, the Customs and Excise Act 1996, or the Land Transport Act 1998. 15
- “(2)** Under this Part,—
- “(a)** the functions of the EPA are to— 20
- “(i)** receive and collate information from the agencies under **section 240**; and
- “(ii)** publish information in accordance with **section 247**; and
- “(iii)** monitor compliance with **subpart 1**; and 25
- “(b)** the function of the Registrar of Motor Vehicles is to receive payment of the motor vehicle levy under **section 228**; and
- “(c)** the function of the New Zealand Customs Service is to receive payment of the goods levy under **section 229**; and 30
- “(d)** it is a function of the EPA and the agencies to recover unpaid levies under **section 230**.
- “(3)** Under the Customs and Excise Act 1996, the function of the New Zealand Customs Service is to assess and collect the goods levy and, for this purpose,— 35

- “(a) assess and collect the levy on goods as if the levy were a duty; and
- “(b) recover unpaid levies as if they were unpaid duties.
- “(4) Under the Land Transport Act 1998, the function of the Registrar of Motor Vehicles is to assess and collect the motor vehicle levy. 5

“Subpart 1—Synthetic greenhouse gas levy

“*Levy imposed*

“**227 Synthetic greenhouse gas levy imposed** 10

- “(1) A levy is imposed on— 10
 - “(a) a leviable motor vehicle that is registered on or after **1 July 2013**, but is not imposed on a motor vehicle that was registered before **1 July 2013** and registered again on or after **1 July 2013**; and
 - “(b) an item of leviable goods that is imported into New Zealand on or after **1 July 2013**. 15
- “(2) However, if a leviable motor vehicle is registered more than once on or after **1 July 2013**, it is liable for the levy only once.

“**228 Person who registers leviable motor vehicle responsible for paying levy** 20

- “(1) The person who registers a leviable motor vehicle on or after **1 July 2013** is responsible for paying the levy.
- “(2) The levy (including any goods and services tax payable on it) must be paid to the Registrar of Motor Vehicles at the same time as the person pays for the registration of the vehicle. 25

“**229 Importer of leviable goods must pay levy**

- “(1) A person who imports leviable goods on or after **1 July 2013** must pay the levy at the prescribed rate for the goods.
- “(2) The person must pay the levy (including any goods and services tax payable on it) to the New Zealand Customs Service at the same time as duty under the Tariff Act 1988 or excise-equivalent duty would be paid on the goods if any were payable. 30

“230 Levies are debt due to the Crown

- “(1) A levy that becomes payable is a debt due to the Crown.
- “(2) The EPA may, on behalf of the Crown, recover the debt in a court of competent jurisdiction.
- “(3) This section does not limit— 5
- “(a) the power of the Customs to recover an unpaid amount of goods levy as a debt under the Customs and Excise Act 1996; or
 - “(b) the power of the Registrar of Motor Vehicles to recover an unpaid amount of motor vehicle levy as a debt under the Land Transport Act 1998. 10

“231 Penalties for failure to pay levy

- “(1) If an importer fails to pay the levy by the date on which **section 229** requires payment (the **due date**), the debt is increased by adding a penalty. 15
- “(2) The penalty is to be calculated in accordance with section 87 of the Customs and Excise Act 1996 as if—
- “(a) a reference to a duty were a reference to a levy; and
 - “(b) a reference to additional duty were a reference to a penalty. 20

“232 Application of provisions of Customs and Excise Act 1996

- “(1) The provisions of the Customs and Excise Act 1996 that apply to the collection of duties apply, with all necessary modifications, to the collection of the goods levy under this Act as if the levy were a duty to which that Act applies. 25
- “(2) However,—
- “(a) section 103(3) of that Act applies as if the reference to dutiable goods were a reference to leviable goods:
 - “(b) section 103(4) and (5) of that Act apply as if they did not refer to the owner of the goods or the licensee of a Customs controlled area. 30
- “(3) Despite **subsection (1)**, the following provisions of the Customs and Excise Act 1996 do not apply to the collection of the levy:
- “(a) section 104: 35
 - “(b) section 108:

- “(c) section 112:
- “(e) section 114:
- “(f) section 117.

“Calculation of levy

“**233 Rate of synthetic greenhouse gas levy** 5

“(1) The levy rate that applies to a leviable motor vehicle, a class of leviable motor vehicle, or an item or a class of leviable goods in a levy year must be calculated in accordance with the following formula:

$$R = A \times B \times GWP \quad 10$$

where—

A is the amount of synthetic greenhouse gas contained in the class of leviable motor vehicle or leviable goods, or the item of leviable goods

B is the price of carbon specified under **subsection (2)(b)** 15

GWP is the global warming potential specified in regulations for the specified synthetic greenhouse gas

R is the rate of the levy.

“(1A) In this section, **amount** means the weight or any other unit of measurement of a synthetic greenhouse gas prescribed for the purpose of this section in regulations made under **section 243(1)(c) or (e)**. 20

“(1B) For the purpose of item A, the amount of synthetic greenhouse gas contained in a leviable motor vehicle or leviable good is—

“(a) the amount specified by regulations for that class of leviable motor vehicle or leviable good, or for an item of leviable good; and 25

“(b) if no amount is specified by regulations, the actual amount contained in the leviable motor vehicle or leviable good. 30

“(2) For the purpose of item B, the Governor-General may, by Order in Council made on the recommendation of the Minister,—

“(a) prescribe the methodology for specifying the price of carbon; and 35

- “(b) specify the price of carbon by applying the methodology.
- “(2A) Regulations made under **subsection (2)(a)**—
- “(a) must be made in accordance with the process set out in **section 244**; and 5
- “(b) may not come into force earlier than 3 months after the date of their notification in the *Gazette*.
- “(2B) Before making a recommendation under **subsection (2)**, the Minister must take into account the following matters:
- “(a) the price of the units used to calculate revenue from the greenhouse gas emissions trading scheme in the Crown annual financial statements over the preceding 12 months; and 10
- “(b) the price of New Zealand units sold by auction under **section 6A** over the preceding 12 months; and 15
- “(c) any changes to the operation of the greenhouse gas emissions trading scheme that have affected the price of the units surrendered under that scheme, or that may do so before the end of the next levy year.
- “**233A Transitional provision for synthetic greenhouse gas levy** 20
- “(1) Despite **section 233(2A)**, the requirements of that subsection do not apply to regulations made under **section 233(2)** that apply during the period 1 July 2013 to 31 December 2013 (the **transitional period**).
- “(2) However, the methodology prescribed by regulations made under **section 233(2)(a)** in the transitional period ceases to apply on and from the end of the transitional period. 25
- “**234 Temporary suspension of levy set by section 233**
- “(1) This section applies to suspend temporarily the operation of **section 233** in relation to the calculation of the levy. 30
- “(2) Despite anything in **section 233**, the operation of that section is suspended for the period—
- “(a) beginning on the date on which this section comes into force; and
- “(b) ending on the close of the date specified for the purpose of this section as the closure date by the Governor-Gen- 35

eral by Order in Council made on the recommendation of the Minister.

“(3) Instead, **subsection (4)** applies to the calculation of the levy rate while the operation of **section 233** is suspended.

“(4) The levy rate that applies to a class of leviable motor vehicles or an item or a class of leviable goods in a levy year must be calculated in accordance with the following formula: 5

$$R = A \times B \times GWP \times 0.5$$

where—

(a) items A, B, GWP, and R have the same meanings as in **section 233(1)**; and 10

(b) **section 233(2)** applies to the calculation of item B.

“(6) Before the Minister may make a recommendation under **subsection (2)(b)**, the Minister must be satisfied that **section 63A** no longer applies to any person and no person is liable to surrender, or is restricted to surrendering, 1 unit for each 2 whole tonnes of emissions. 15

“(7) This section is repealed on the day after the closure date specified in an Order in Council made under **subsection (2)(b)**.

“(8) An Order in Council made under **subsection (2)(b)** may be revoked, replaced, or amended at any time before the closure date specified in that order. 20

“**235 Maximum price of carbon for purpose of levy calculation**

“(1) This section applies to the calculation of item B of the formula set out in **section 233(1) or 234(4)** (as applicable) for the period— 25

“(a) beginning on the date on which this section comes into force; and

“(b) ending on the close of the date specified for the purpose of this section as the closure date by the Governor-General by Order in Council made on the recommendation of the Minister. 30

“(2) If, during the period specified in **subsection (1)**, the application of the methodology prescribed under **section 233(2)(a)** results in a carbon price that is higher than \$25, the regulations made under **section 233(2)(b)** must prescribe a carbon price of \$25. 35

- “(3) Before the Minister may make a recommendation under **subsection (1)(b)**, the Minister must be satisfied that a person does not meet his or her obligation to surrender, repay, or reimburse units by paying \$25 for each unit in accordance with **section 178A**. 5
- “(4) This section overrides **sections 233 and 234**.
- “**236 Levy rate exclusive of GST**
A levy rate calculated in accordance with **section 233 or 234** is exclusive of goods and services tax.
- “**237 Levy rate for period from 1 July 2013 to 31 December 2013** 10
The levy rate calculated in accordance with **section 234(4)** applies for the period starting on **1 July 2013** and ending with the close of **31 December 2013**.
- “**238 Levy rate to apply for single calendar year on and after 1 January 2014** 15
- “(1) A levy rate applies for 1 levy year.
- “(1A) **Subsection (1)** is subject to **section 237**.
- “(2) If no rate is set before the beginning of a levy year, the levy rate for that year is the same as it was for the preceding levy year. 20
- “(3) However, if a levy rate is set for a levy year after the beginning of the levy year, the new levy rate applies from the beginning of the quarter of the levy year following the date on which the levy rate was set until the close of the levy year. 25
- “(4) For the purposes of this section and **section 240**,—
- “(a) a levy rate is set on the date on which the regulations prescribing the rate come into force:
- “(b) the quarters of a levy year are— 30
- “(i) 1 January to 31 March:
- “(ii) 1 April to 30 June:
- “(iii) 1 July to 30 September:
- “(iv) 1 October to 31 December.

“Levies to be paid into Crown Bank Account

“239 Agencies to pay levy into Crown Bank Account

The EPA and the agencies must pay the amount of all levies received under this Part into a Crown Bank Account.

“Information

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“240 Agencies to provide information to EPA quarterly

“(1) The agencies must, for each quarter of a levy year, keep records of and provide to the EPA all the following information:

“(a) the amount of levy money received:

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“(b) the number of—

“(i) leviable motor vehicles registered:

“(ii) consignments of leviable goods imported:

“(c) the number of persons who were required to pay the levy by **section 228 or 229** (as applicable):

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“(d) the number of persons who failed to pay the levy as required by **section 228 or 229** (as applicable):

“(e) the amount of levy money refunded:

“(f) the amount of levy money unable to be recovered.

“(2) The information described in **subsection (1)** must be provided for each class of leviable motor vehicle or and for each class of leviable goods.

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“241 Agencies and EPA to share information

Section 149(2) applies as if the EPA and the agencies were referred to in section 149(1).

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“241A Circumstances where levy may be refunded

“(1) Subsection (2) applies in relation to a levy paid under **section 228** on—

“(a) a motor vehicle containing a leviable good; or

“(b) a motor vehicle containing a synthetic greenhouse gas that is, because it is imported after 1 July 2013, subject to the greenhouse gas emissions trading scheme under subpart 2 of Part 4 of Schedule 3.

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“(2) The EPA, upon application in an approved manner by the person responsible for the payment required under **section 228**,

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must refund the motor vehicle levy paid on the relevant motor vehicle, but only if the person applying for the refund establishes, to the satisfaction of the EPA, that—

“(a) the motor vehicle levy has been paid in relation to the relevant motor vehicle; and 5

“(b) the relevant motor vehicle is one to which **subsection (1)** applies.

“**241B Exemptions from payment of synthetic greenhouse gas levy**

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, exempt any person or class of persons from— 10

“(a) paying the whole or part of the levy for certain leviable motor vehicles or leviable goods; or

“(b) being subject to the whole or part of the levy for certain leviable motor vehicles or leviable goods; or 15

“(c) a combination of the matters specified in **paragraphs (a) and (b)**.

“(2) An Order in Council made under **subsection (1)** may specify any terms and conditions (including, but not limited to, terms and conditions imposing geographical or operational restrictions) that the Governor-General thinks fit. 20

“(3) Before recommending the making of an order under **subsection (1)**, the Minister must be satisfied that—

“(a) the order will not materially undermine the environmental integrity of the synthetic greenhouse gas levy; and 25

“(b) the costs of making the order do not exceed the benefits of making the order.

“(4) In determining whether to recommend the making of an order under **subsection (1)**, the Minister must have regard to the following matters: 30

“(a) the need to maintain the environmental integrity of the synthetic greenhouse gas levy; and

“(b) the desirability of minimising any compliance and administrative costs associated with the synthetic greenhouse gas levy; and 35

- “(c) the relative costs of giving the exemption or not giving it, and who bears the costs; and
- “(d) any alternatives that are available for achieving the objectives of the Minister in respect of giving the exemption; and 5
- “(e) any other matters the Minister considers relevant.
- “(5) While an order made under this section is in force, any person or class of persons in respect of whom the order is made is not required to comply with the obligation to pay the levy.
- “(6) Before recommending the making or revocation of an order 10 under this section, the Minister must—
 - “(a) consult with persons that the Minister considers are likely to be substantially affected by the making of the order; and
 - “(b) give those persons the opportunity to make submissions; and 15
 - “(c) consider those submissions.

“Regulations

- “**242 Regulations specifying levy rates**
- “(1) The Governor-General may, by Order in Council made on the 20 recommendation of the Minister, make regulations for 1 or more of the following purposes:
 - “(a) prescribing the rate of the levy to apply to 1 or more classes of leviable motor vehicles:
 - “(b) prescribing the rate of the levy to apply to 1 or more 25 items or classes of leviable goods.
- “(2) Regulations made under **subsection (1)(a)** may specify different rates for different classes of leviable motor vehicles.
- “(3) Regulations made under **subsection (1)(b)** may specify different rates for different classes of leviable goods. 30
- “(4) Regulations made under **subsection (1)** come into force on a date specified in the regulations that may not be earlier than 3 months after the date of their notification in the *Gazette*.

“243 Regulations relating to synthetic greenhouse gas levy

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes:

- “*Specified synthetic greenhouse gases* 5
- “(a) specifying a hydrofluorocarbon or perfluorocarbon as a specified synthetic greenhouse gas for the purposes of the levy:
- “*Leviable motor vehicles*
- “(b) specifying classes of leviable motor vehicles to which the levy may apply (which may be by reference to the amount of synthetic greenhouse gas that they contain): 10
- “(c) specifying the amount of a specified synthetic greenhouse gas that each class of leviable motor vehicles is to be treated as containing: 15
- “*Leviable goods*
- “(d) specifying leviable goods or classes of leviable goods to which the levy may apply (which may be by reference to the amount of synthetic greenhouse gas that they contain): 20
- “(e) specifying the amount of a specified synthetic greenhouse gas that an item or class of leviable goods is to be treated as containing:
- “*General*
- “(f) specifying accounts and records that must be kept by persons collecting levies, or persons who are or may be liable to pay a levy: 25
- “(g) specifying the information that persons collecting levies must provide to the EPA and when the information must be provided: 30
- “(h) prescribing the data or other information that must be collected under **section 245(1)(a)** in relation to a class of leviable goods or synthetic greenhouse gases, and, if relevant, the mechanism or method by which the data or information must be collected: 35
- “(i) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.

“(2) Before making a recommendation for the making of regulations under **subsection (1)(a)**, the Minister must have regard to New Zealand’s international obligations relating to synthetic greenhouse gases.

“(3) Regulations made under **subsection (1)(a) to (e)** come into force on a date specified in the regulations that may not be earlier than 3 months after the date of their notification in the *Gazette*. 5

“**244 Process for making orders and regulations** 10

“(1) Before making a recommendation for the making of regulations under **section 233(2)(a), 243(1)(a) to (e), or 255**, the Minister must consult, or be satisfied that the chief executive has consulted, the persons (or representatives of those persons) that appear to the Minister or the chief executive likely to be substantially affected by any regulations made in accordance with the recommendation. 15

“(2) The process for consultation must include—

“(a) giving adequate and appropriate notice of the proposed terms of the recommendation, and of the reasons for it; and 20

“(b) providing a reasonable opportunity for interested persons to consider the recommendation and make submissions; and

“(c) giving adequate and appropriate consideration to submissions. 25

“(3) A failure to comply with this section does not affect the validity of regulations made under **section 233(2)(a), 243(1)(a) to (e), or 255**.

“Obligations of importers of leviable goods

“**245 Collecting information and keeping records** 30

“(1) An importer must, in relation to the importation of leviable goods containing a specified synthetic gas,—

“(a) collect the prescribed data or other prescribed information (which data or information must, if required by regulations, be verified by a person or an organisation recognised by the EPA for the purpose); and 35

- “(b) keep records of the data or information in the prescribed format (if any); and
- “(c) keep sufficient records to enable the EPA to verify, in relation to any levy year,—
 - “(i) the quantity of leviable goods of each class imported; and
 - “(ii) the total amount of levy paid on those goods.
- “(2) The records specified in **subsection (1)** must be kept for a period of at least 7 years after the end of the year to which they relate.

“Subpart 2—Administrative provisions and verification

“246 **Application of section 88 (Directions to EPA)**

Section 88 applies in relation to the EPA’s exercise of powers and performance of functions under this Part or any regulations made under this Part as if a reference to Part 5 were a reference to **Part 7**.

“247 **EPA to publish information relating to levies**

- “(1) The EPA must publish the following information in relation to leviable goods imported and leviable motor vehicles registered in each reporting year in accordance with **subsection (2)**:
 - “(a) for each class of leviable motor vehicle, the total number of persons who registered a vehicle of that class; and
 - “(b) for each specified synthetic greenhouse gas used in the air-conditioning system of a leviable motor vehicle, the total number of leviable motor vehicles registered; and
 - “(c) for each class of leviable goods, the total number of persons who imported leviable goods of that class; and
 - “(d) for each specified synthetic greenhouse gas treated as contained in a class of leviable goods, the total quantity of goods of that class imported; and
 - “(e) in respect of each class of leviable motor vehicle, the number of leviable motor vehicles registered; and
 - “(ea) in respect of each class of leviable goods, the number of consignments imported; and

- “(f) the total quantity of synthetic greenhouse gas treated as contained in the air-conditioning systems of leviable motor vehicles of each class registered; and
 - “(g) the total quantity of synthetic greenhouse gas treated as contained in leviable goods of each class imported; and 5
 - “(h) the total amount of levy money collected; and
 - “(i) the number of persons who failed to comply with their obligation to pay a levy.
- “(2) The EPA—
- “(a) must publish the information specified in **subsection (1)** as soon as practicable after the end of the reporting year; and 10
 - “(b) may publish the information specified in **subsection (1)**, in whole or in part, at any other time and in whatever manner and format that the EPA considers appropriate. 15
- “(3) The EPA is not required to publish the information required under **subsection (1)(b), (d), (f), and (g)** in respect of an activity if the EPA is satisfied that publishing the information would result in the disclosure of the amount of synthetic greenhouse gas imported by an identifiable person or in motor vehicles registered by an identifiable person, unless— 20
- “(a) the person to whom the information relates has consented to the publication of the information; or
 - “(b) the information is already in the public domain. 25
- “(4) In this section, **reporting year** means a 12-month period starting on 1 July and ending with the close of 30 June.
- “**248 Recognition of verifiers**
- “(1) The EPA may, in accordance with regulations made under **section 255**, recognise a person or an organisation with the prescribed expertise, technical competence, or qualifications as a person or an organisation that may undertake verification functions for the purposes of **section 245(1)(a)**. 30
- “(2) A person or an organisation may be recognised by the EPA as able to verify information in respect of 1 or more classes of leviable motor vehicles or leviable goods, or 1 or more items of leviable goods. 35

“(3) The EPA may suspend or revoke any recognition given under this section in accordance with regulations made under **section 255**.

“**249 Enforcement officers**

The EPA may appoint 1 or more enforcement officers under section 93 to exercise 1 or more of the powers and perform the functions conferred on enforcement officers under Part 4 in relation to this Part. 5

“**250 Power to require information**

“(1) The EPA or an enforcement officer may, by notice, require a person to provide any information that is reasonably necessary for the purposes of ascertaining whether— 10

“(a) a person is complying with this Part; or

“(b) the EPA should exercise any powers under this Part.

“(2) The EPA or an enforcement officer may require the person who is to provide the information to also provide a statutory declaration attesting to the truthfulness of the information provided. 15

“(3) The information must be provided—

“(a) in the form specified by the person who requested it; and 20

“(b) within any reasonable time specified in the notice; and

“(c) free of charge.

“**251 Power to inquire**

“(1) This section applies for the purpose of obtaining information for a purpose specified in **section 250(1)**, or obtaining any other information required for the purposes of the administration or enforcement of this Part. 25

“(2) The EPA may, by notice, require a person to—

“(a) appear before it or an enforcement officer at a time and place specified in the notice to give evidence; and 30

“(b) produce a document or class of documents in the person’s possession or under the person’s control.

“(3) The EPA or an enforcement officer may require the evidence to be given under oath, and either orally or in writing.

“(4) For the purpose of **subsection (3)**, the EPA or an enforcement officer may administer an oath.

“(5) Sections 97 and 98 apply to an inquiry under this section.

“**252 Inquiry before District Court Judge**

“(1) The EPA may apply in writing to a District Court Judge to hold an inquiry under this section, if the EPA considers it necessary for the purpose of obtaining information for a purpose specified in **section 250(1)**, or obtaining any other information required for the purposes of the administration or enforcement of this Part. 5 10

“(2) Section 96(2) to (4) apply in relation to an inquiry under this section as if there were no reference to the chief executive.

“(3) Section 96(5) applies as if the reference to the chief executive were a reference to the EPA.

“(4) Sections 97 and 98 apply to an inquiry under this section. 15

“**253 Obligation to maintain confidentiality**

“(1) The EPA and every enforcement officer—

“(a) must keep confidential all information that comes into their knowledge when performing any function or exercising any power under this Part; and 20

“(b) may not disclose any information described in **paragraph (a)**, except in the circumstances described in section 99(2)(b).

“(2) However, to avoid doubt, the EPA may,—

“(a) provide or publish general guidance in relation to the operation of this Part; and 25

“(b) with the prior approval of the Minister, prepare statistical information and provide it to any person in a form that does not identify any individual.

“**254 Power of entry for investigation, warrants, etc** 30

“(1) Sections 100 and 102 to 106 apply in relation to this Part as if every reference to Part 5 were a reference to **Part 7**.

“(2) Section 101 applies as if every reference to section 129, 132, or 133 included a reference to **sections 256, 258, and 260**.

“255 Regulations relating to verifiers

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes:

“(a) prescribing the data or other information that must be verified by a person or an organisation recognised by the EPA under **section 248**; and 5

“(b) prescribing, for the purposes of **section 248**,—

“(i) the process by which a person or an organisation may be recognised as being able to verify information or calculations for the purposes of **section 245**; and 10

“(ii) the expertise, technical competence, or qualifications required for recognition as a person or an organisation able to verify data or information; and 15

“(iii) any additional—

“(A) requirements for recognition of an organisation; and

“(B) restrictions on the employees of the organisation who may carry out the duties of the organisation in respect of the recognition; and 20

“(iv) the period for which a person or an organisation may be recognised, and the process for the renewal of recognition; and 25

“(v) conditions of recognition, which may include ongoing competency and professional standard requirements, membership of a professional body, and the provision of reports to the EPA; and 30

“(vi) the procedure for, and circumstances in which, recognition may be suspended or revoked; and

“(vii) fees to enable the recovery of the direct and indirect costs of the EPA in recognising a person or an organisation, which may vary depending on the class of persons or organisations, or the type of verification in respect of which recognition is sought. 35

“(2) Regulations made under **subsection (1)** may apply—

- “(a) generally or with respect to different classes of activity, persons, parts of New Zealand, or other specified things; or
 - “(b) in respect of the same classes of activity, persons, parts of New Zealand, or other specified things, in different circumstances; or 5
 - “(c) generally or at any specified time of each year.
- “(3) Before making a recommendation for the making of regulations under **subsection (1)(a)**, the Minister must have regard to New Zealand’s international obligations in respect of the collection of data and information relating to specified synthetic greenhouse gases. 10

“Subpart 3—Offences and penalties

“*Offences relating to synthetic greenhouse gas levy* 15

“**256 Offence in relation to failure to collect data and keep records**

- “(1) A person who is an importer commits an offence against this Act if the person, without reasonable excuse, fails to comply with **section 245(1)** (requirement to collect data or other information and keep records). 20
- “(2) Every person who is convicted of an offence against **subsection (1)** is liable on summary conviction,—
 - “(a) the first time the person is convicted of that offence, to a fine not exceeding \$8,000: 25
 - “(b) the second time the person is convicted of that offence, to a fine not exceeding \$16,000:
 - “(c) on every subsequent occasion that the person is convicted of that offence, to a fine not exceeding \$24,000.

“**257 Failure to provide information or documents** 30

- “(1) A person commits an offence against this Act if the person, without reasonable excuse,—
 - “(a) fails to provide information to the EPA or an enforcement officer when required to do so under **section 250**; or 35

- “(b) fails to appear before the EPA or an enforcement officer, or fails to produce any document or documents, when required to do so under **section 251**.
- “(2) Every person who is convicted of an offence against **subsection (1)** is liable on summary conviction,— 5
- “(a) in the case of an individual, to a fine not exceeding \$12,000;
- “(b) in the case of a body corporate, to a fine not exceeding \$24,000.
- “**258 Other offences** 10
- “(1) A person commits an offence against this Act if the person, without reasonable excuse,—
- “(a) refuses to take an oath when required to do so under **section 251**; or
- “(b) refuses to answer any question when required to do so under **section 251**; or 15
- “(c) knowingly fails to comply with **section 245(1)** (requirement to collect data or other information and keep records); or
- “(d) knowingly provides altered, false, incomplete, or misleading information to the EPA, an enforcement officer, or any other person in respect of any matter in this Part; or 20
- “(e) wilfully obstructs, hinders, resists, or deceives—
- “(i) the EPA or an enforcement officer exercising a power conferred on that person under this Part; 25
- or
- “(ii) the New Zealand Customs Service, a Customs officer, or a Customs Appeal Authority in relation to a power conferred on that person under the Customs and Excise Act 1996 in relation to the goods levy; or 30
- “(iii) the Registrar of Motor Vehicles in relation to a power conferred on him or her under the Land Transport Act 1998 in relation to the motor vehicle levy. 35
- “(2) Every person who is convicted of an offence against **subsection (1)** is liable on summary conviction,—

- “(a) in the case of an individual, to a fine not exceeding \$25,000:
- “(b) in the case of a body corporate, to a fine not exceeding \$50,000.

“**259 Offence for breach of confidentiality** 5

A person who knowingly contravenes **section 253** commits an offence and is liable on summary conviction to either or both of—

- “(a) imprisonment for a term not exceeding 6 months:
- “(b) a fine not exceeding \$15,000. 10

“**260 Evasion**

“(1) A person commits an offence against this Act if the person, with intent to deceive and for the purpose of either obtaining any material benefit or avoiding any material detriment,—

- “(a) fails to comply with **section 245(1)** (requirement to collect data or other information and keep records); or 15
- “(b) fails to provide information to—
 - “(i) the EPA, an enforcement officer, or any other person when required to do so under this Part; or
 - “(ii) the New Zealand Customs Service, a Customs officer, or a Customs Appeal Authority when required to do so under the Customs and Excise Act 1996 in relation to the goods levy; or 20
 - “(iii) the Registrar of Motor Vehicles when required to do so under the Land Transport Act 1998 in relation to the motor vehicle levy; or 25
- “(c) provides altered, false, incomplete, or misleading information to the Minister or the EPA or any other person in respect of a matter in this Part.

“(2) Every person who is convicted of an offence against **subsection (1)** is liable on conviction on indictment to either or both of—

- “(a) imprisonment for a term not exceeding 5 years:
- “(b) a fine not exceeding \$50,000.

*“Offence in relation to release of synthetic
greenhouse gases*

“261 Offence in relation to release of synthetic greenhouse gases

“(1) A person commits an offence against this Act if the person, in the course of undertaking an activity described in **subsection (2)**, knowingly and without lawful justification or excuse releases any hydrofluorocarbon, perfluorocarbon, or sulphur hexafluoride into the atmosphere. 5

“(2) The activities are installing, operating, servicing, modifying, dismantling, or disposing of any electrical switchgear, refrigeration or air-conditioning equipment, or other heat-transfer medium. 10

“(3) A person who is convicted of an offence against **subsection (1)** is liable on summary conviction,—

“(a) in the case of an individual, to a fine not exceeding \$25,000; 15

“(b) in the case of a body corporate, to a fine not exceeding \$50,000.

“262 Defence for release of synthetic greenhouse gas

The circumstances in which a person described in **section 261(1)** may have a lawful justification or excuse for releasing any hydrofluorocarbon, perfluorocarbon, or sulphur hexafluoride into the atmosphere include (but are not limited to) circumstances where the release could not reasonably have been avoided. 20 25

“Proceedings and liability

“263 Limitation period for commencement of proceedings

Despite section 14 of the Summary Proceedings Act 1957, an information for an offence against—

“(a) **section 257 or 258(1)(a), (b), or (e)** may be laid at any time within 2 years from the time when the matter of the information arose: 30

“(b) **section 256 or 258(1)(c) or (d)** may be commenced at any time within 7 years from the time when the matter of the information arose. 35

“264 Evidence in proceedings

- “(1) In any proceedings for an offence against this Part, a certificate or document (including an electronic copy) of any of the kinds described in **subsection (2)**—
- “(a) is admissible in evidence; and 5
 - “(b) in the absence of proof to the contrary, is sufficient evidence of the matter stated in the certificate or the document, as the case may require.
- “(2) The kinds of certificate or document are—
- “(a) a certificate purporting to be signed by a delegate of the EPA to the effect that, at any specified date or during any specified period, a named person is or was, or is not or was not, an enforcement officer or a person or an organisation recognised under **section 248**; or 10
 - “(b) a certificate purporting to be signed by any person authorised to delegate to any person, or to persons of any kind or description, the exercise of any power or the performance of any function under this Part, stating that the person has delegated— 15
 - “(i) the exercise of the power or the performance of the function specified in the certificate to the person specified in the certificate; or 20
 - “(ii) the exercise of the power or the performance of the function specified in the certificate to persons of a kind or description specified in the certificate, and that a named person specified in the certificate is a person of that kind or description. 25
- “(3) The production of a certificate or document purporting to be a certificate to which **subsection (2)** applies is prima facie evidence that it is such a certificate or document, without proof of— 30
- “(a) the signature of the person purporting to have signed the document; or
 - “(b) the document’s nature.

“**265 Liability of body corporate, directors, managers of companies, companies, and persons for actions of directors, agents, and employees**

- “(1) Sections 139 and 140 apply in relation to proceedings against, or conviction of, a body corporate for an offence under this Part as if a reference to Part 4 were a reference to **Part 7**. 5
- “(2) Section 141 applies as if a reference to sections 132(1)(c) to (f) or 133 included a reference to **section 258(1)(c) or (d) or 260**.

“Subpart 4—Other matters 10

“**266 Review of operation and effectiveness of levy**

- “(1) The Minister may, at any time, initiate a review of the operation and effectiveness of the synthetic greenhouse gas levy.
- “(2) A review may be undertaken by any method that the Minister considers appropriate. 15
- “(3) Without limiting the Minister’s discretion under **subsection (1)**, the Minister may appoint an independent panel—
- “(a) to conduct a review under **subsection (1)**; and
 - “(b) to report in accordance with the terms of reference.
- “(4) If the Minister appoints a panel, the Minister must— 20
- “(a) specify in writing the terms of reference for the review; and
 - “(b) publish the report of the panel; and
 - “(c) present a copy of the report to the House of Representatives. 25
- “(5) If the Minister initiates a review but does not appoint a panel, the Minister must—
- “(a) consult persons (or their representatives) who appear to the Minister likely to have an interest in the review; and
 - “(b) consult representatives of iwi and Māori who appear to the Minister to be likely to have an interest in the review; and 30
 - “(c) specify written terms of reference for the review; and
 - “(d) establish a procedure that the Minister is satisfied is appropriate, fair in the circumstances, and in accordance with the terms of reference. 35

- “(6) The Minister may, but need not, initiate a review under **subsection (1)** at the same time as he or she initiates a review under **section 160** of the operation and effectiveness of the emissions trading scheme.
- “**267 Appointment and conduct of independent panel** 5
- “(1) If the Minister appoints an independent panel under **section 266**, the Minister must—
- “(a) ensure that there is no fewer than 3 but not more than 7 members; and
- “(b) ensure that the majority of the members are not employees under the State Sector Act 1988; and 10
- “(c) consider whether the members have, in the Minister’s opinion, the appropriate knowledge, skill, and experience to conduct the review, including knowledge, skill, and experience of— 15
- “(i) this Act; and
- “(ii) New Zealand’s international obligations under the Protocol and the Convention and any other relevant international agreement; and
- “(iii) the operation of the synthetic greenhouse gas levy; and 20
- “(d) appoint 1 member as the chairperson of the panel.
- “(2) The Minister must, by written notice to the panel, specify the terms of reference for the review to be conducted by the panel.
- “(3) A review panel must complete a draft report on the review and provide the report to the Minister by the date set out in the terms of reference. 25
- “(4) The review panel must—
- “(a) allow the Minister at least 10 working days within which to respond to and comment on the contents of the draft report; and 30
- “(b) after considering the Minister’s response and comments (if any), prepare a final report and provide it to the Minister by the date set out in the terms of reference.
- “(5) In conducting a review, the review panel— 35
- “(a) must establish a procedure that is appropriate, fair in the circumstances, and in accordance with the terms of reference of the review; and

- “(b) must consult persons (or their representatives) that appear to the panel likely to have an interest in the review; and
“(c) may call for submissions.
- “(6) If the Minister initiates a review under **section 266(1)** and a review under **section 160**, the Minister may appoint 1 independent panel to undertake both reviews.” 5
- 101 Schedule 3 amended**
- (1) In Schedule 3, Part 1, item relating to deforesting pre-1990 forest land,— 10
- (a) replace “exempt land,” with “forest land that under **section 179A** may not be treated as deforested,”; and
- (b) replace “after that” with “after that, but excluding any pre-1990 forest land that is affected by a natural event that permanently prevents re-establishing a forest on that land”. 15
- (2) In Schedule 3, insert after Part 1:
- Part 1A
“Pre-1990 offsetting forest land
“(applies on and after 1 January 2013) 20
“Deforesting pre-1990 offsetting forest land, but excluding any pre-1990 offsetting forest land that is affected by a natural event that permanently prevents re-establishing a forest on that land.”
- (4) In Schedule 3, Part 23, after the Part 23 heading, insert: 25
“Subpart 1
- (5) In Schedule 3, ~~Part 2~~ Part 3, after the item relating to ~~owning obligation fuel~~ refining petroleum, insert: 30
“Subpart 2
“(applies on and after 1 January 2014)
“Using crude oil or other liquid hydrocarbons (other than obligation fuel or as specified in Part 3) where any prescribed threshold is met.”
- (5A) In Schedule 3, Part 3, item relating to using geothermal fluid, replace “heat” with “heat (initial use only)”. 35
- (6) In Schedule 3, Part 4, replace subpart 2 with:

“Subpart 2

“(applies, subject to sections 218 and 219, on and after 1 January 2011)

“Operating electrical switchgear that uses sulphur hexafluoride where any prescribed threshold is met. 5

“Importing hydrofluorocarbons or perfluorocarbons, excluding hydrofluorocarbons or perfluorocarbons contained in goods.

“Manufacturing hydrofluorocarbons or perfluorocarbons other than through producing aluminium, resulting in the consumption of anodes or the production of anode effects.” 10

(7) In Schedule 3, Part 5, subpart 3, replace the item relating to slaughtering ruminant animals, pigs, horses, or poultry with:

“Slaughtering ruminant animals, pigs, horses, or poultry by a person who is the operator of a risk management programme registered under the Animal Products Act 1999 for the slaughter of animals.” 15

(8) In Schedule 3, Part 5, subpart 3, repeal the item relating to producing eggs.

102 Schedule 4 amended 20

(1) In Schedule 4, Part 2, replace subpart 3 with:

“Subpart 3

“(applies, subject to sections 218, 219, and 220, on and after 1 January 2011)

“Exporting hydrofluorocarbons or perfluorocarbons, including hydrofluorocarbons or perfluorocarbons contained in goods, where any prescribed threshold is met. 25

“Destroying hydrofluorocarbons or perfluorocarbons where any prescribed threshold is met.”

(2) In Schedule 4, replace Part 3 with: 30

Part 3

“Liquid fossil fuels

“(applies on and after 1 July 2013)

“Purchasing obligation fuel from 1 or more participants who carry out an activity listed in Part 2 of Schedule 3 where any prescribed threshold is met.” 35

Part 2
Miscellaneous

103 Consequential amendments

The Acts and regulations specified in the **Schedule** are sequentially amended in the manner indicated in that schedule. 5

Schedule

s 103

Consequential amendments

Part 1

Consequential amendments to other Acts

Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85)

5

Repeal section 2(1).

Repeal section 53.

Goods and Services Tax Act 1985 (1985 No 141)

After section 5(6), insert:

“(6AA) For the purposes of this Act, a levy that is paid under the Climate Change Response Act 2002 is treated as if it were consideration for a supply of services in furtherance of a taxable activity carried on by—

10

“(a) the New Zealand Transport Agency, if the levy is paid under **section 228** of that Act; or

15

“(b) the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011, if the levy is recovered under **section 230** of that Act.”

In section 12(2)(c), after “paragraph (a)”, insert “; and”.

20

After section 12(2)(c), insert:

“(d) the amount of levy paid or payable on goods under the Climate Change Response Act 2002.”

Land Transport Act 1998 (1998 No 110)

In section 233(1), insert in its appropriate alphabetical order:

25

“**motor vehicle (synthetic greenhouse gas) levy** means the levy payable under **section 227(1)(a)** of the Climate Change Response Act 2002”.

After section 243(1), insert:

“(1A) An application for registration of a motor vehicle must also be accompanied by the amount of the motor vehicle (synthetic greenhouse gas) levy for the motor vehicle if required under **section 227(1)(a)** of the Climate Change Response Act 2002.”

30

Part 2

Consequential amendments to regulations

**Climate Change (Agriculture Sector) Regulations 2010 (SR
2010/335)**

In regulation 3, revoke the definition of **layer hen**. 5

~~In regulation 7, replace “1999, but is not a retail butcher (as defined in section 4(1) of the Animal Products Act 1999),” with “1999 for the slaughter of animals”.~~

~~In regulation 8(1), replace “1999, but is not a retail butcher (as defined in section 4(1) of the Animal Products Act 1999),” with “1999 for the slaughter of animals”.~~ 10

In regulation 7(1)(a), delete “(other than layer hens)”.

Replace regulation 7(1)(b) and (c) with:

“(b) is the operator of a risk management programme registered under the Animal Products Act 1999 for the slaughter of animals.” 15

In regulation 8(1)(a), delete “(other than layer hens)”.

Replace regulation 8(1)(b) and (c) with:

“(b) is the operator of a risk management programme registered under the Animal Products Act 1999 for the slaughter of animals.” 20

Revoke regulations 13 and 14.

In the Schedule, Table 1, item relating to poultry, delete “(other than a layer hen)”.

**Climate Change (General Exemptions) Order 2009 (SR
2009/370)** 25

In clause 3, revoke the definitions of **layer hen**, **in New Zealand temporarily**, **motor vehicle**, and **passing through New Zealand**.

In clause 9, replace “and is not a retail butcher (as defined in section 4(1) of the Animal Products Act 1999)” with “for the slaughter of animals”. 30

In clause 9, delete “(other than layer hens)”.

Revoke clause 12.

Revoke clause 14.

Part 2—*continued*

Climate Change (General Exemptions) Order 2009 (SR 2009/370)—*continued*

Replace clause 15 with:

“15 Exemption for activity of importing HFC-245fa/365mfc

A person who carries out the activity (listed in **subpart 2 of Part 4 of Schedule 3** of the Act) of importing hydrofluorocarbons or perfluorocarbons, excluding hydrofluorocarbons or perfluorocarbons contained in goods, is exempt as a participant in respect of the importation of hydrofluorocarbons or perfluorocarbons in relation to the gas HFC-245fa/365mfc (excluding HFC-245fa/365mfc contained in goods) to the extent that the person imports that gas.”

In the Schedule, revoke the items relating to clauses 12 and 15(1)(b) and 15(1)(c).

Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316)

Replace clause 8(1) with:

“(1) In the Schedule heading, replace ‘11–13, 15’ with ‘11, 13’.”

In the heading to clause 10, replace “12, 13, and 15” with “and 13”.

In clause 10, replace “12, 13, and 15(1)(b) and (c)” with “and 13”.

Climate Change (Other Removal Activities) Regulations 2009 (SR 2009/284)

In regulation 3(1), definition of **destroying synthetic greenhouse gases activity**, replace “, perfluorocarbons, or sulphur hexafluoride” with “or perfluorocarbons”.

In regulation 3(1), definition of **exporting synthetic greenhouse gases activity**, replace “perfluorocarbons, or sulphur hexafluoride, including hydrofluorocarbons, perfluorocarbons, or sulphur hexafluoride” with “perfluorocarbons, including hydrofluorocarbons or perfluorocarbons”.

In regulation 3(1), definition of **synthetic greenhouse gas**, paragraph (b), delete “; or”.

In regulation 3(1), definition of **synthetic greenhouse gas**, revoke paragraph (c).

Part 2—*continued*

**Climate Change (Other Removal Activities) Regulations 2009
(SR 2009/284)—*continued***

Revoke regulation 8(1)(b).

Revoke regulation 8(2)(h).

Replace regulation 11(2) and (3) with:

“(2) The person must not collect and record information under sub-clause (1) about hydrofluorocarbon 245fa/365mfc.” 5

Replace regulation 13(2) and (3) with:

“(2) The person must not collect and record information under sub-clause (1) about hydrofluorocarbon 245fa/365mfc.”

Revoke regulation 19(2) and (3).

In the Schedule, table 1, revoke the item relating to SF6. 10

**Climate Change (Stationary Energy and Industrial Processes)
Regulations 2009 (SR 2009/285)**

In regulation 3(1), replace the definition of **category** with:

“**category**, in relation to coal, means,—

“(a) if there is no unique emissions factor for fugitive coal seam gas in force in relation to the coal, a category specified in Part A of table 3 of Schedule 2; or 15

“(b) if a unique emissions factor for fugitive coal seam gas is in force in relation to the coal, the category of coal to which the unique emissions factor relates” 20

In regulation 3(1), revoke the definitions of **charge**, **excluded goods**, and **pre-charged equipment**.

In regulation 3(1), definition of **synthetic greenhouse gas**, paragraph (b), delete “; or”.

In regulation 3(1), definition of **synthetic greenhouse gas**, revoke paragraph (c). 25

In regulation 3(1), revoke the definition of **type**.

Replace regulation 4(i) with:

“(i) in relation to synthetic greenhouse gases, means a class of hydrofluorocarbons or perfluorocarbons specified in paragraph (h).” 30

Part 2—*continued*

Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (SR 2009/285)—*continued*

Revoke regulations 44A to 44F and the cross-heading above regulation 44A.

In regulation 44G, delete “, including hydro fluorocarbons or per fluorocarbons contained in goods”.

Replace regulation 44H with:

5

“44H Collection and recording of information for purpose of calculating emissions from importing hydrofluorocarbons or perfluorocarbons

“(1) Information must be collected and recorded and emissions must be calculated in respect of imported hydrofluorocarbons or imported perfluorocarbons in accordance with regulations 44I and 44J, if the hydrofluorocarbons or perfluorocarbons are imported in bulk in the year.

10

“(2) An emissions return for the activity must record the person’s total emissions for the period covered by the return, calculated by adding together the emissions for each class of hydrofluorocarbons or perfluorocarbons imported in bulk by the person in the period, as calculated under regulation 44J.”

15

Revoke regulations 44K to 44N.

In regulation 44O, delete “sulphur hexafluoride,”.

20

In Schedule 2A, table 1, delete the heading “*Sulphur hexafluoride*”.

In Schedule 2A, table 1, revoke the item relating to SF₆.

In Schedule 2A, revoke table 3.

Climate Change (Unit Register) Regulations 2008 (SR 2008/357)

In regulation 3, definition of **qualified person**, after paragraph (b), insert:

25

“(ba) who is required to open a holding account under **section 186H(2)** of the Act; or”.

Part 2—*continued*

**Land Transport (Motor Vehicle Registration and Licensing)
Regulations 2011 (SR 2011/79)**

Replace regulation 72 with:

“**72 Recovery of unpaid fees, levies, and penalties for late payment** 5

“(1) The Registrar may recover an unpaid fee, an accident insurance levy, a motor vehicle (synthetic greenhouse gas) levy, or a penalty for late payment from the person described in **sub-clause (2)** as a debt due to the Crown.

“(2) The person is a person who fails to pay all or part of a fee, an accident insurance levy, a motor vehicle (synthetic greenhouse gas) levy, or a penalty to the Registrar that the person is obliged to pay under this Part.” 10

In regulation 73, replace “or accident insurance levy” with “, accident insurance levy, or motor vehicle (synthetic greenhouse gas) levy”. 15

Legislative history

20 August 2012	Introduction (Bill 52–1)
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6 November 2012	Committee of the whole House
