Climate Change Response (Removal of Transitional Measure) Amendment Bill

Government Bill

Explanatory note

General policy statement

The purpose of this Bill is to phase out the transitional one-for-two surrender obligation measure (**one-for-two**) from the New Zealand Emissions Trading Scheme (**NZ ETS**). One-for-two allows non-forestry participants in the NZ ETS to submit only one emissions unit for every two tonnes of carbon dioxide equivalent of greenhouse gas (**GHG**) emissions. It was introduced as a transitional measure in 2009 to moderate the initial impacts of the NZ ETS on businesses and the economy. It was extended in 2012 while New Zealand continued to recover from the global financial crisis.

Removing one-for-two seeks to improve the ability of the NZ ETS to fulfil its statutory purpose of helping New Zealand meet its international obligations and reduce net emissions below business-as-usual levels. It will better align the NZ ETS with the intended emissions reduction target for 2030 that New Zealand has announced under the Paris Agreement. This will reduce a potential fiscal risk to the Crown in the 2020s associated with meeting this target and more effectively influence business decisions to reduce emissions.

One-for-two is reflected throughout the Climate Change Response Act 2002 (**the Act**) in several ways—

(a) the surrender obligation for participants from the liquid fossil fuel, stationary energy, industrial processes, and waste sectors is halved. Forestry is the only sector that has a full surrender obligation to surrender one unit for every one tonne of emissions:

(b) free allocations of units for industrial activities are calculated based on the halved surrender obligation. Free allocations for the agricultural sector would also be halved if the agriculture sector faced a surrender obligation:

(c) entitlements for non-forestry removal activities (eg, embedding GHGs in products or exporting products containing certain GHGs) are halved, based on the halved surrender obligation:

(d) the synthetic greenhouse gas levy rate is calculated based on the halved surrender obligation.

The Bill will remove one-for-two from the above elements of the Act in a phased manner from 1 January 2017, increasing surrender obligations in equal steps until full obligations are reached in January 2019. This gradual phase-out is intended to manage the costs and impacts of this change on businesses and households.

Departmental disclosure statement

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=136

Regulatory impact statement

The Ministry for the Environment produced a regulatory impact statement on 23 March 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of the regulatory impact statement can be found at—

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

Clause by clause analysis

Clause 1 states the title of the Bill.

Clause 2 provides that the Bill commences on 1 January 2017. The exception is that *Part 2* commences on 1 January 2019, which is when certain provisions of the principal Act will be repealed.

Clause 3 states that the Bill amends the Climate Change Response Act 2002 (the **principal Act**).

Part 1 (clauses 4 to 8) contains the main amendments to the principal Act.

Clause 4 amends section 63A, which modifies the liability to surrender units that cover certain emissions. The amendment phases out the modification (and so phases in the full liability). The existing modification requires only 1 unit to be surrendered for each 2 whole tonnes of emissions. That now ends on 31 December 2016. For the year 2017, 1 unit must be surrendered for each 1.5 whole tonnes of emissions. For the year 2018, 1 unit must be surrendered for each 1.2 whole tonnes of emissions. From

1 January 2019, the modifications end (so that 1 unit must be surrendered for each whole tonne of emissions).

Clause 5 amends section 64A, which modifies the entitlement to receive New Zealand units for certain removal activities. The amendment phases out the modification (and so phases in the full entitlement). The existing modification entitles a participant to receive only 1 New Zealand unit for each 2 whole tonnes of removals from an activity. That now ends on 31 December 2016. For the year 2017, the participant is entitled to receive 1 New Zealand unit for each 1.5 whole tonnes of removals. For the year 2018, the participant is entitled to receive 1 New Zealand unit for each 1.2 whole tonnes of removals. From 1 January 2019, the modifications end (so that the participant is entitled to receive 1 New Zealand unit for each whole tonne of removals).

Clause 6 amends section 84A, which temporarily suspends part of the allocation entitlement for an eligible industrial activity. The amendment phases out the suspension (and so phases in the full allocation entitlement). The existing suspension entitles an eligible person to be allocated only one-half of the person's allocation entitlement. That now ends on 31 December 2016. For the year 2017, the person is entitled to receive two-thirds of the allocation entitlement. For the year 2018, the person is entitled to receive five-sixths of the allocation entitlement. From 1 January 2019, the suspensions end (so that the participant is entitled to receive the full allocation entitlement).

Clause 7 repeals section 85B, which temporarily suspends part of the allocation entitlement for an eligible agricultural activity. Those activities are not subject to surrender obligations and the suspension has no effect where there are no surrender obligations.

Clause 8 amends section 235, which temporarily suspends the full rate of the synthetic greenhouse gas levy. The amendment phases out the suspension (and so phases in the full rate). The existing suspension reduces the levy rate to one-half of the full rate. That now ends on 31 December 2016. For the year 2017, the levy rate is reduced to two-thirds of the full rate (an increase from the one-half rate of the previous year). For the year 2018, the levy rate is reduced to five-sixths of the full rate (an increase from the two-thirds rate of the previous year). From 1 January 2019, the suspensions end (so that the full rate applies).

Part 2 (clause 9) provides for consequential amendments to the principal Act. The consequential amendments are set out in the *Schedule* of the Bill. They remove cross-references to provisions that will be repealed on 1 January 2019.

Hon Paula Bennett

Climate Change Response (Removal of Transitional Measure) Amendment Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Climate Change Response (Removal of Transitional Measure) Amendment Act **2016**.

2 Commencement

(1) This Act comes into force on **1 January 2017**.

(2) However, **Part 2** comes into force on **1 January 2019**.

3 Principal Act

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

Part 1
Main amendments

4 Section 63A amended (Modification of liability to surrender units to cover certain emissions)

Replace section 63A(2) with:

(2) Despite anything in this Act, a person to whom this section applies is liable to surrender, and may surrender, only the following for emissions from the activity:

(a) for the period ending on 31 December 2016, 1 unit for each 2 whole tonnes of emissions:

(b) for the year starting on 1 January 2017, 1 unit for each 1.5 whole tonnes of emissions:

(c) for the year starting on 1 January 2018, 1 unit for each 1.2 whole tonnes of emissions.

(3) This section is repealed on 1 January 2019.

5 Section 64A amended (Modification of entitlement to receive New Zealand units for removal activities)

Replace section 64A(2) with:

(2) Despite section 64, a participant to whom this section applies is entitled to receive only the following for removals from the activity:

(a) for the period ending on 31 December 2016, 1 New Zealand unit for each 2 whole tonnes of removals:

(b) for the year starting on 1 January 2017, 1 New Zealand unit for each 1.5 whole tonnes of removals:

(c) for the year starting on 1 January 2018, 1 New Zealand unit for each 1.2 whole tonnes of removals.

(3) This section is repealed on 1 January 2019.

6 Section 84A amended (Temporary suspension of allocation entitlement for eligible industrial activities)

Replace section 84A(3) to (5) with:

(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 the following:

(a) for the period starting on 1 January 2013 and ending on 31 December 2016, one-half of the person's allocation entitlement:

(b) for the year starting on 1 January 2017, two-thirds of the person's allocation entitlement:

(c) for the year starting on 1 January 2018, five-sixths of the person's allocation entitlement.

(4) This section is repealed on 1 January 2019.

7 Section 85B repealed (Temporary suspension of allocation entitlement for eligible agricultural activities)

Repeal section 85B.

8 Section 235 amended (Temporary suspension of levy set by section 233)

(1) Replace section 235(2) with:

(2) Despite anything in section 233, the operation of that section is suspended for the period starting on 1 January 2013 and ending on 31 December 2018.

(2) In section 235(4), formula, replace "0.5" with "C".

(3) In section 235(4), after paragraph (a), insert:

(aa) item C means—

(i) one-half, for the period starting on 1 January 2013 and ending on 31 December 2016:

(ii) two-thirds, for the levy year starting on 1 January 2017:

(iii) five-sixths, for the levy year starting on 1 January 2018; and

(4) Replace section 235(5) to (7) with:

(5) This section is repealed on 1 January 2019.

Part 2
Consequential amendments

9 Consequential amendments to principal Act

Amend the principal Act as set out in the **Schedule**.

Schedule
Consequential amendments to principal Act (on 1 January 2019)

s 9

Section 2A

In section 2A(1)(b), delete "and 63A, 64A,".

Section 236

In section 236(1), delete "or 235(4) (as applicable)".

In section 236(4), replace "sections 233 and 235" with "section 233".

Section 237

In section 237, delete "or 235".

Section 238

Repeal section 238.

Section 239

Repeal section 239(2).

Wellington, New Zealand:

Published under the authority of the New Zealand Government—2016