



Cabinet Environment, Energy and Climate Committee

Minute of Decision

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Climate Change Response (Emissions Trading Reform) Amendment Bill: Policy Approvals

Portfolio **Climate Change**

On 14 May 2020, the Cabinet Environment, Energy and Climate Committee:

Background

- 1 **noted** the Climate Change Response (Emissions Trading Reform) Amendment Bill (the Bill) to amend the Climate Change Response Act 2002 (the Act) was recently considered by the Environment Select Committee;
- 2 **noted** that, following input from officials, the Minister for Climate Change has developed further policy changes to ensure the objectives of the Bill and the government's wider climate change goals are achieved, and that the reforms to the New Zealand Emissions Trading Scheme (NZ ETS) can be implemented effectively;
- 3 **noted** the policy changes in the paper, attached under ENV-20-SUB-0017, will require amendments to the Bill via a supplementary order paper (SOP);

A new power to extend the Climate Change Commission's statutory deadlines

- 4 **noted** that the Climate Change Commission faces significant difficulties in meeting its statutory deadlines to provide initial advice to the Minister for Climate Change in the present circumstances under COVID-19;
- 5 **authorised** the Minister for Climate Change to have powers to extend the deadline for the Climate Change Commission's advice on:
 - 5.1 the first three emissions budgets in section 5ZA(4)(a) of the Act;
 - 5.2 the first emissions reduction plan in section 5ZH(2) of the Act;
- 6 **agreed** that these powers to extend the deadlines in sections 5ZA(4)(a) and 5ZH(2) of the Act:
 - 6.1 are limited to a maximum extension period of six months from 1 February 2021;
 - 6.2 can only be exercised upon the written request of the Climate Change Commission submitted after the enactment of this amendment;

6.3 can only be exercised by way of notice in the New Zealand Gazette;

Delaying implementation of major forestry policies

7 **noted** that delivering amendments to the Climate Change (Forestry Sector) Regulations 2008 in time to implement the major forestry policies, listed in Appendix 1 to the paper under ENV-20-SUB-0017, by 1 October 2021, so they can come into force on 1 January 2022, is at considerable risk due to the government-wide COVID-19 response;

8 **agreed** to delay implementation of those major forestry policies by one year, by:

8.1 extending the implementation date for forestry policies listed in Appendix 1 to 1 January 2023;

8.2 updating the transitional provisions to reflect the change in commencement date;

8.3 requiring forests registered from 1 January 2023 to use averaging accounting, and allowing forests registered between 1 January 2019 and 31 December 2022 the option of using stock change accounting or averaging accounting;

8.4 commencing temporary adverse event liability suspensions from 1 January 2023;

Delaying the new surrender/repayment penalty regime for small foresters

9 **agreed** to delay the introduction of the new surrender/repayment penalty for forestry activities that occurred before 1 January 2023, and where an emissions return or notice results in a net liability less than 25,000 units per year covered in the return or notice;

10 **agreed** the existing penalties contained in sections 134–136 of the Act will apply for the failure to surrender or repay units by the due date for obligations arising from forestry activities that meet the threshold;

11 **directed** the Ministry for the Environment, the Ministry for Primary Industries, and the Ministry of Foreign Affairs and Trade to:

11.1 investigate compliance issues and impacts of the non-surrender/ repayment penalty on small foresters and to consider other sectors that may be similarly affected by the non-surrender/ repayment penalty;

11.2 carefully consider our ability to link the NZ ETS to overseas markets in the future in developing policy options; and

11.3 report back to Cabinet in mid-2021 with any potential amendments to penalty provisions in the Act to be included in any later Bill (if necessary).

Amending penalties to align with amended emissions returns

12 **agreed** to require the Environmental Protection Authority (EPA) to recalculate the surrender/ repayment penalty after amending an emissions return;

13 **agreed** to require the EPA to either apply further penalties with appropriately amended due dates, or reimburse any penalties that had been overpaid, as appropriate, based on the difference between the original and the revised obligations;

14 **agreed** that the surrender/repayment penalty will not accumulate interest for the period while the EPA amends the emissions return;

Extending temporary adverse event provisions to existing stock change forests

- 15 **noted** that the Bill provides a suspension of the surrender liabilities arising from temporary adverse events to permanent forestry and post-1989 forestry using averaging accounting, but the Bill does not currently extend this suspension to existing registered forests using stock change accounting;
- 16 **noted** that submissions on the Bill, and the supporting regulations, strongly support access to the temporary adverse event suspension for stock change forests, primarily due to the ongoing financial costs associated with liabilities from temporary adverse events;
- 17 **noted** that Cabinet authorised the Minister for Climate Change and the Minister of Forestry to make in-principle policy decisions related to these matters [CAB-20-MIN-0063];
- 18 **noted** that the Minister for Climate Change and the Minister of Forestry recommend the policy changes outlined below;
- 19 **agreed** all post-1989 forests in the NZ ETS will not be required to surrender units arising from carbon lost in a temporary adverse event so long as they comply with the current Bill requirements for temporary adverse events, including re-establishing the forest;
- 20 **agreed** that the policy, referred to in paragraph 19 above, commences alongside the temporary adverse events suspension for averaging and permanent forests on 1 January 2023;
- 21 **noted** that the Bill requires regulations on temporary adverse events be consulted on, including this proposed extension of the suspension to stock change forests;
- 22 **noted** that parallel to the Select Committee process on the Bill, Te Uru Rākau consulted on the policy to inform regulations required to implement the suspension for averaging and permanent forests;
- 23 **agreed** to a one-off exemption from the requirements to consult on the regulations for the first set of regulations that apply to stock change forests, as recent consultation on the same methodology for permanent forests has allowed stakeholders the opportunity to comment and to provide the relevant information needed to develop the regulations;

Extending access to the fixed-price option for emissions from the start of 2020 at \$35

- 24 **noted** that an increase and extension of the fixed-price option (FPO) was proposed in the government's consultation on NZ ETS settings in December 2019, to resolve a market risk of limited supply sources in the transition to auctioning emission units;
- 25 **noted** that the proposal was generally supported by submitters;
- 26 **noted** that Cabinet authorised the Minister for Climate Change, the Minister of Forestry, and the Minister of Finance to make in-principle policy decisions related to the FPO [CAB-20-MIN-0062];
- 27 **noted** that the Minister for Climate Change, the Minister of Forestry, and the Minister of Finance recommend the FPO policy changes outlined below;

- 28 **agreed** to extend the FPO as follows:
- 28.1 from the date the amended Act takes effect, the price of the FPO is raised from \$25 per New Zealand unit (NZU) to \$35 per NZU for emission activities in calendar year 2020 and in emission years indefinitely thereafter;
 - 28.2 on the date of the first NZU auction the \$35 FPO is restricted to be available only for activities in 2020, and for any full calendar years up to that auction date;
 - 28.3 the \$35 FPO can be used to meet emission unit surrender obligations arising from non-forestry activities and pre-1990 forestry activities in any year included in paragraph 28.1 and as amended by paragraph 28.2 above;
 - 28.4 the \$35 FPO is available to post-1989 foresters on a pro-rata basis that considers the time period covered by an emissions return for activities in any year included in paragraph 28.2 above;
 - 28.5 post-1989 foresters can only access the FPO when submitting net emission returns;
 - 28.6 the \$35 FPO will remain in the Act, with no expiry, as a way for participants to meet surrender obligations arising from activities in any year included in paragraph 28.2 above and for access by post-1989 foresters using the pro-rata approach;
 - 28.7 the \$25 FPO will also remain in the Act, with no expiry, as a way for participants to meet surrender obligations arising from activities before the start of calendar year 2020 and for access by post-1989 foresters for that period using the pro-rata approach;
 - 28.8 until the date of the first NZU auction the maximum price of carbon used to calculate synthetic greenhouse gas levy rates is \$35;

Technical changes to transferring entitlement units

- 29 **noted** that the Bill currently requires the EPA to deduct outstanding surrender or repayment units (the specified units) before transferring entitlement units (the potential transfer units) to the recipient account in the NZ ETS Register;
- 30 **noted** that implementing this process raises technical issues, including the need for a significant rebuild of the Register system;
- 31 **noted** that an alternative process is for the EPA to first pay the entitlement units (the potential transfer units) to the recipient holding account, then deduct the surrender or repayment obligation (the specified units) immediately after;
- 32 **noted** that the alternative process would meet the original policy intent to ensure overdue or outstanding surrender or repayment obligations will be met before recipients receive their entitlement to units;
- 33 **agreed** that the implementation issues outweigh the property rights impacts in deducting units from recipient accounts through this alternative process;
- 34 **agreed** to adopt the alternative process for transferring entitlement units in the Register;

Authorising these policy changes

- 35 **noted** that authorisation will be sought for the Cabinet Legislation Committee to have Power to Act to approve the final SOP;
- 36 **authorised** introducing the final SOP to the House to be considered at the Committee of the whole House stage;

Further Report

- 37 **noted** that the Minister for Climate Change will report back to ENV with an update on financial accounting treatment of New Zealand's climate change-related revenues and obligations and ways to effect reduction of future emissions, including the possible use of ETS revenues.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Phil Twyford
Hon David Parker (Chair)
Hon Stuart Nash
Hon Damien O'Connor
Hon Shane Jones
Hon James Shaw,
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for ENV