

Budget Measures (Miscellaneous Fiscal Matters) Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill introduced in accordance with Standing Order 260(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

It is intended that the Bill will be divided at the committee of the whole House so that:

- *Part 1* becomes the Cheque Duty Repeal Bill;
- *Part 2* becomes the Climate Change Response (Unit Restriction) Amendment Bill;
- *Part 3* becomes the Dumping and Countervailing Duties Amendment Bill.

As part of Budget 2014, the Government announced the following fiscal measures:

- the repeal of cheque duty; and
- the prevention of reregistration arbitrage by post-1989 forest land participants in the emissions trading scheme; and
- the temporary suspension of anti-dumping duties on residential building materials.

The measures are part of the overall fiscal settings for Budget 2014, in line with the Budget Policy Statement 2014.

The measures will:

- permanently remove cheque duty, which has become an inefficient and distortionary tax, to reduce costs to consumers who use cheques; and
- remove an unintended consequence in the New Zealand emissions trading scheme (NZETS) established under the Climate Change Response Act 2002 that has the potential to expose the Crown to a significant fiscal risk; and
- temporarily remove anti-dumping duties on imported residential building materials to increase competition, lift sector productivity, and reduce the cost of residential construction.

These fiscal measures are needed to pass on benefits to consumers and to protect the Crown's fiscal position.

Part 1: Cheque duty repeal

Cheque duty is an outmoded tax that no longer raises substantial revenue, largely due to the decline in popularity of cheques as a method of payment. As part of Budget 2014, the Government announced that cheque duty would be repealed from 1 July 2014.

Cheque duty is New Zealand's last remaining transaction duty. No equivalent duty applies to alternative methods of payment (such as cash, EFTPOS, Internet banking, and credit card transactions). This makes cheque duty a distortionary and easily avoided tax.

Repealing cheque duty will benefit businesses, non-profit organisations, and individuals that still use cheques as a payment method. It will also reduce compliance costs, particularly for banks and printers of cheques.

Part 1 of the Bill provides that banks and printers of cheques that were licensed under the Stamp and Cheque Duties Act 1971 for the quarter or month ending 30 June 2014 must file a final cheque duty return and make a final payment of cheque duty for that period by 21 July 2014.

Prepaid cheque duty for the period before 1 July 2014 may in some circumstances be refunded by written application made by 21 July 2014.

*Part 2: Climate change response (unit
restriction) amendments*

The purpose of *Part 2* of this Bill is to correct an unintended consequence in the operation of the NZETS, which arises from a difference between the price of New Zealand units (NZUs) and the price of certain Kyoto units.

This unintended consequence in the NZETS allows post-1989 forest land participants the opportunity to arbitrage NZUs by registering, deregistering, and reregistering in the NZETS for the same area of forest land. On each registration, the participant receives an allocation of NZUs for what is, effectively, the same area of land from the start of the mandatory reporting period (currently 1 January 2013). On deregistration, the participant may repay the unit balance using lower-priced Kyoto units. This activity is referred to as reregistration arbitrage. Post-1989 forestry is the only sector with the opportunity to engage in reregistration arbitrage.

This Bill seeks to prevent reregistration arbitrage by amending the Climate Change Response Act 2002 to restrict post-1989 forest land participants to the surrender of NZUs when surrendering the unit balance of any post-1989 forest land deregistered from the NZETS. The Bill will, therefore, prevent significant reputational and integrity risks to the NZETS and fiscal costs to the Crown.

*Part 3: Dumping and countervailing duties
amendments*

In 2013, as part of the Government's response to the Productivity Commission's 2012 report on housing affordability, the Ministry of Business, Innovation, and Employment undertook a study of the construction sector to identify barriers to housing affordability. Anti-dumping duties and tariffs on residential building materials were identified as barriers to competition and productivity in the construction sector.

The current anti-dumping regime protects New Zealand industries from unfair trading practices by providing domestic industries with a mechanism to seek relief from imports that are dumped. Goods are considered to be dumped if the export price to New Zealand is less than the price the goods are sold for in the domestic market of the exporting country.

The Dumping and Countervailing Duties Act 1988 does not allow for consideration of whether an anti-dumping duty is otherwise in the public interest or for consideration of significant events that affect an industry or the public, such as earthquakes or other natural disasters. *Part 3* of this Bill amends the Act to improve housing affordability by suspending the application of anti-dumping duties on imported residential construction materials for 3 years. Currently, anti-dumping duties are imposed on 3 types of building materials, namely, standard plasterboard and reinforcing steel bar and coil from Thailand and wire nails from the People's Republic of China. The Bill removes this barrier to competition and productivity in the construction sector to support the Christchurch rebuild and increased residential construction in Auckland.

The suspension is not intended to affect the ability of—

- a New Zealand producer or an interested party to apply to the Secretary to initiate an investigation under section 10 of the Dumping and Countervailing Duties Act 1988; or
- a Government of a third country to advise the Secretary of dumping or subsidisation under section 18 of the Act; or
- the Secretary to initiate and carry out an investigation, a reassessment, or a review; or
- the Minister to make a determination, reassess the rate of an anti-dumping duty, or terminate an anti-dumping duty following a review.

However, such measures (with the exception of a termination of an anti-dumping duty by the Minister) would not be implemented until the end of the suspension period.

The suspension is a short-term measure to help lower the cost of residential construction during the period to which it applies.

Departmental disclosure statements

Inland Revenue, the Ministry for the Environment, and the Ministry of Business, Innovation, and Employment are required to prepare disclosure statements to assist with the scrutiny of this Bill. The disclosure statements provide access to information about the policy development of the Bill and identify any significant or unusual legislative features of the Bill.

A copy of the disclosure statements for this Bill can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=214&>.

Regulatory impact statements

Inland Revenue produced a regulatory impact statement on 18 March 2014 to help inform the main policy decisions taken by the Government relating to the contents of *Part 1* of this Bill.

Copies of that regulatory impact statement can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

The Ministry for the Environment produced a regulatory impact statement on 10 March 2014 to help inform the main policy decisions taken by the Government relating to the contents of *Part 2* of this Bill.

Copies of that regulatory impact statement can be found at—

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

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 12 March 2014 to help inform the main policy decisions taken by the Government relating to the contents of *Part 3* of this Bill.

Copies of that regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/what-we-do/housing>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause; it provides that—

- *sections 3 and 4* will come into force on 1 July 2014:
- *section 5* will come into force on 22 July 2014:
- *Part 2* is deemed to come into force on 16 May 2014:

- *Part 3* will come into force on the day after the date on which it receives the Royal assent.

Part 1

Cheque duty repeal

Clause 3 amends the *Stamp and Cheque Duties Act 1971*, to repeal cheque duty from 1 July 2014. However, banks and printers of cheques that were licensed for the quarter or month ended 30 June 2014 must file a final cheque duty return and make a final payment of cheque duty for that period by 21 July 2014. Prepaid cheque duty for the period before 1 July 2014 may be refunded in some circumstances by written application made by 21 July 2014.

Clause 4 amends the *Tax Administration Act 1994* consequential to the repeal of cheque duty, but taking into account the need to regulate the final cheque duty return and payment for the quarter or month ended 30 June 2014.

Clause 5 amends *clauses 3 and 4*, the *Stamp and Cheque Duties Act 1971*, and the *Tax Administration Act 1994*, to complete the repeal of cheque duty after the final cheque duty return and payment.

Part 2

Climate change response: unit restriction

Clause 6 provides that *Part 2* amends the Climate Change Response Act 2002.

Clause 7 amends section 63 of the Climate Change Response Act 2002 to clarify that section 63(1) is subject to the amendments to section 191.

Clause 8 amends section 191 of the Climate Change Response Act 2002 to provide that only New Zealand units are to be used by post-1989 forest land participants when surrendering the unit balance of any post-1989 forest land deregistered from the NZETS. *New subsection (1A)* clarifies the scope and intent of *new subsection (1)(c)*.

Part 3

Dumping and countervailing duties

Clause 9 provides that *Part 3* amends the Dumping and Countervailing Duties Act 1988.

Clause 10 amends section 3(1) of the Dumping and Countervailing Duties Act 1988 to—

- insert new definitions of building material, Ministry, and residential building material:
- replace the definition of Minister:
- amend the definition of Secretary to remove the outdated reference to the Ministry of Economic Development.

Clause 11 inserts a *new section 14AA* into the Dumping and Countervailing Duties Act 1988 to provide for the suspension of anti-dumping duties on residential building material between 1 June 2014 and 31 May 2017.

Hon Bill English

Budget Measures (Miscellaneous Fiscal Matters) Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Cheque duty repeal		
3	Stamp and Cheque Duties Act 1971: cheque duty repeal	2
4	Tax Administration Act 1994 amended consequential to cheque duty repeal	3
5	Final removal of compliance and refund: cheque duty repeal	3
Part 2		
Climate change response: unit restriction		
6	Principal Act	4
7	Section 63 amended (Liability to surrender units to cover emissions)	4
8	Section 191 amended (Ceasing to be registered as participant in respect of post-1989 forest land)	4
Part 3		
Dumping and countervailing duties		
9	Principal Act	4
10	Section 3 amended (Interpretation)	4
11	New section 14AA inserted (Temporary suspension of anti-dumping duties on residential building material)	6

14AA	Temporary suspension of anti-dumping duties on residential building material	6
------	--	---

The Parliament of New Zealand enacts as follows:

1	Title	
	This Act is the Budget Measures (Miscellaneous Fiscal Matters) Act 2014 .	
2	Commencement	5
(1)	Sections 3 and 4 come into force on 1 July 2014.	
(2)	Section 5 comes into force on 22 July 2014.	
(3)	Part 2 is deemed to come into force on 16 May 2014.	
(4)	Part 3 comes into force on the day after the date on which this Act receives the Royal assent.	10

Part 1

Cheque duty repeal

3	Stamp and Cheque Duties Act 1971: cheque duty repeal	
(1)	Repeal Part 6, other than sections 85 and 86, of the Stamp and Cheque Duties Act 1971.	15
(2)	All licences and authorities granted or issued by the Commissioner of Inland Revenue under Part 6 of the Stamp and Cheque Duties Act 1971 are cancelled and cease to have any force or effect on and after 1 July 2014.	
(3)	All agreements under section 80 of the Stamp and Cheque Duties Act 1971 are terminated on 1 July 2014.	20
(4)	A bank that has its licence cancelled under subsection (2) must comply with section 81(3) and (4) of the Stamp and Cheque Duties Act 1971, treating those subsections as in force despite subsection (1) of this section .	25
(5)	A printer that has its licence cancelled under subsection (2) must comply with section 82(3) of the Stamp and Cheque Duties Act 1971, treating that subsection as in force despite subsection (1) of this section .	

- (6) In section 85(1) of the Stamp and Cheque Duties Act 1971,—
- (a) in paragraph (c), replace “have been” with “have been, before 1 July 2014,”; and
 - (b) replace “he” with “the Commissioner” in both places in which it appears; and 5
 - (c) replace “made in writing within 8 years” with “made in writing before 22 July 2014 and within 8 years”; and
 - (d) replace “destruction” with “destruction before 1 July 2014”.
- 4 Tax Administration Act 1994 amended consequential to cheque duty repeal** 10
- (1) Repeal sections 144(1)(f) and (g), (2), and (6) of the Tax Administration Act 1994.
 - (2) For the purposes of section 144(1)(d) and (e) of the Tax Administration Act 1994, a bank or printer that has its licence cancelled under **section 3(2)** of this Act is treated as licensed under section 81, or section 82 (as the case may be) of the Stamp and Cheque Duties Act 1971 despite **section 3** of this Act. 15
- 5 Final removal of compliance and refund: cheque duty repeal** 20
- (1) Repeal **sections 3(4) and (5), and 4(2)** of this Act.
 - (2) Repeal sections 2, 85 and 86 of the Stamp and Cheque Duties Act 1971.
 - (3) In section 86F of the Stamp and Cheque Duties Act 1971, insert, in appropriate alphabetical order: 25
“**Commissioner** means the Commissioner of Inland Revenue as defined in the Tax Administration Act 1994”.
 - (4) Repeal sections 144 and 184A(5)(d) of the Tax Administration Act 1994. 30

Part 2

Climate change response: unit restriction

- 6 Principal Act**
This Part amends the Climate Change Response Act 2002 (the **principal Act**). 5
- 7 Section 63 amended (Liability to surrender units to cover emissions)**
After section 63(2), insert:
“(3) Subsection (1) is subject to **section 191(1)(c)**.”
- 8 Section 191 amended (Ceasing to be registered as participant in respect of post-1989 forest land)** 10
- (1) In section 191(1)(b)(ii)(B), after “subsection (4)”, insert “; and”.
- (2) After section 191(1)(b), insert:
“(c) must, despite section 63, use only New Zealand units 15
to surrender the unit balance that the person is liable to
surrender under paragraph (b).”
- (3) After section 191(1), insert:
“(1A) The purpose of **subsection (1)(c)** is to prevent reregistration
arbitrage, which was an unintended consequence in the op- 20
eration of the Act before the commencement of **subsection
(1)(c)** and arose from significant differences between the price
of New Zealand units and the price of certain Kyoto units.”

Part 3

Dumping and countervailing duties 25

- 9 Principal Act**
This Part amends the Dumping and Countervailing Duties Act 1988 (the **principal Act**).
- 10 Section 3 amended (Interpretation)**
- (1) In section 3(1), insert in their appropriate alphabetical order: 30
“**building material**—
“(a) means any structural or non-structural component and
assembly incorporated into, associated with, or capable

- of being incorporated into or associated with a building;
and
- “(b) includes—
- “(i) roofing, roofing underlay, flashing, cladding, building wrap, rainwater systems, trusses, framing and framing elements, supporting beams, partitioning, plasterboard and other internal linings, architraves and other trim, windows, doors, and insulation: 5
 - “(ii) sanitaryware: 10
 - “(iii) pipes, tubing, pipe fittings, tapware, hot water storage systems, hot water heating systems, and other plumbing fixtures:
 - “(iv) electrical material other than heating materials and appliances: 15
 - “(v) fixed cabinetry, bench tops, and splashbacks:
 - “(vi) sinks, hand basins, and washbasins:
 - “(vii) paint and varnish:
 - “(viii) reinforcing steel bar and coil:
 - “(ix) reinforcing steel mesh: 20
 - “(x) cement:
 - “(xi) adhesives and sealants:
 - “(xii) nails, screws, nailplates, and hinges:
 - “(xiii) locksets, passage sets, handles, door stops, and other builders hardware; but 25
- “(c) does not include—
- “(i) heating materials:
 - “(ii) heating appliances:
 - “(iii) wall and floor coverings (including wallpaper):
 - “(iv) air conditioning, ventilation components, and other ventilation products: 30
 - “(v) security systems:
 - “(vi) smoke alarms:
 - “(vii) lamps:
 - “(viii) decorative or removable light fittings: 35
 - “(ix) household appliances:
 - “(x) external drainage or pipes:
 - “(xi) landscaping:
 - “(xii) outdoor decorative items or materials:

- “(xiii) pavers or fencing:
“(xiv) curtains, blinds, or drapes
- “**Ministry** means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act 5
- “**residential building material** means any building material that is capable of being incorporated into or associated with a residential dwelling (regardless of whether it is also capable of being incorporated into or associated with commercial premises)”. 10
- (2) In section 3(1), replace the definition of **Minister** with:
“**Minister** means the Minister of the Crown for the time being responsible for the administration of this Act”.
- (3) In section 3(1), definition of **Secretary**, delete “of Economic Development”. 15
- 11 New section 14AA inserted (Temporary suspension of anti-dumping duties on residential building material)**
After section 14, insert:
- “14AA Temporary suspension of anti-dumping duties on residential building material 20**
- “(1) In this section, **specified period** means the period beginning on 1 June 2014 and ending on the close of 31 May 2017.
- “(2) During the specified period,—
- “(a) no new anti-dumping duty may be imposed under section 14(1) or 16(1) or (2) on any residential building material: 25
- “(b) existing anti-dumping duties on the following items are suspended:
- “(i) standard plasterboard from Thailand:
- “(ii) reinforcing steel bar and coil from Thailand: 30
- “(iii) wire nails from the People’s Republic of China.
- “(3) If the Minister notifies a rate or amount of anti-dumping duty on any residential building material during the specified period, the new duty is imposed and takes effect on and from 1 June 2017. 35
- “(4) If the Minister varies the rate or amount of any existing anti-dumping duty on any residential building material during the

specified period, the new rate takes effect on and from 1 June 2017.

“(5) To avoid doubt,—

“(a) this section does not affect the Minister’s power to terminate an existing notice under section 14(7): 5

“(b) any anti-dumping duty on an item of the kind referred to in **subsection (2)(b)** that was imposed and payable before the specified period remains payable.”
