

Presented to the House of Representatives in accordance with Standing Order 272

Legislative Statement: Climate Change Response (Extension of Penalty Transition for Forestry Activities with Low Volume Emissions Liabilities) Amendment Bill – Third Reading

The purpose of the Climate Change Response (Low Volume Forestry Emission Transition Extension) Amendment Bill (**the Bill**) is to delay the application of the ‘three to one’ penalty for **small forestry participants**¹ in the New Zealand Emissions Trading Scheme (**NZ ETS**) who fail to surrender or repay (**pay**) units² by the due date for activities occurring up until 31 December 2024.

This is achieved by amending that transitional arrangement provisions set out in Clause 17 of Schedule 1AA of the Climate Change Response Act 2002 (**the Act**).

The transitional arrangement was inserted into the Act on 1 January 2021, at the time that changes were introduced to improve the NZ ETS penalties and compliance regime.³ These changes included strengthening the penalty that applies when a person fails pay units by the due date (the ‘**three to one**’ penalty).

The ‘three to one’ penalty:

- is set at three times the price of carbon (as set in regulations);
- is absolute in nature, meaning there is no provision for the regulator to reduce or waive the final penalty; and
- applies in addition to the original unit obligation.

The application of the ‘three to one’ penalty was deferred⁴ for small forestry participants with unit liabilities arising from forestry activities occurring up until 31 December 2022. This was due to concerns that the ‘three to one’ penalty could cause serious financial hardship for small forestry participants if they were to incur the penalty and be unable to pay it; potentially putting their personal assets (such as their home or farm) at risk.

The transitional arrangement preserves the ‘excess emissions penalty’, which previously applied to all unit surrenders and repayments, for small forestry participants who fail to pay units by the due date for forestry activities occurring up until 31 December 2022. The excess emissions penalty is set at \$30 per unpaid unit, with discretion to be reduced by up to 100 percent in certain circumstances.

If the Bill is not passed by the end of the year, the transitional arrangement will expire and the ‘three to one’ penalty will apply to small forestry participants who fail to pay units on time for forestry activities occurring from 1 January 2023.

In recognition that the risk posed to small forestry participants by the ‘three to one’ penalty persists (and may be exacerbated by the rising price of carbon), this Bill extends the transitional arrangement to cover liabilities from forestry activities occurring up until 31 December 2024. The benefits of doing so are twofold:

¹ being forestry participants and eligible persons with forestry liabilities of less than 25,000 units on average per year.

² also known as carbon credits whereby each unit represents the equivalent of one tonne of carbon dioxide.

³ The Climate Change Response (Emissions Trading Reform) Amendment Act 2020 introduced a series of changes to improve the NZ ETS.

⁴ The ‘three to one’ penalty came into force for all other NZ ETS participants and other eligible persons from 1 January 2021.

- it continues to safeguard small forestry while a more proportionate penalty is finalised for these participants; and
- ensures officials have sufficient time to develop and roll out an education package aimed to help participants understand what a revised penalty will mean in practice before it takes effect from 1 January 2025.