

## Legislative statement for the Climate Change (Late Payment Penalties and Industrial Allocation) Amendment Bill – Second Reading

15 August 2023

This legislative statement supports the Second Reading of the Climate Change Response (Late Payment Penalties and Industrial Allocation) Amendment Bill (the Bill).

### Overview of the Bill as introduced

The purpose of the Bill is to:

- update the penalty applying from 1 January 2025 to small forestry participants<sup>1</sup> in the New Zealand Emissions Trading Scheme (NZ ETS), who fail to pay New Zealand Units on time, and
- amend the NZ ETS industrial allocation provisions to address over-allocation of units to emission-intensive and trade-exposed (EITE) industries and to improve alignment with Aotearoa New Zealand's national and global climate change commitments.

In particular, the Bill as introduced contains the following proposals. These are summarised below, and are detailed in the Legislative Statement presented to the House of Representatives in accordance with Standing Order 272 to support the First Reading of the Bill.<sup>2</sup>

The Bill as introduced:

- included a revised penalty for small forestry participants in the NZ ETS who fail to pay units on time, as well as minor amendments to clarify how the revised penalty will apply in practice;
- made changes to industrial allocation settings to:
  - update allocative baselines with new data and enable updates to allocative baselines in future to address over-allocation; and
  - allow reassessment of the eligibility of current industries with new data and updated eligibility thresholds.

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<sup>1</sup> Being forestry participants and eligible persons with forestry liabilities of less than 25,000 units on average per year.

<sup>2</sup> Available at: [https://www.parliament.nz/en/pb/papers-presented/current-papers/document/PAP\\_130681/legislative-statement-climate-change-response-late-payment](https://www.parliament.nz/en/pb/papers-presented/current-papers/document/PAP_130681/legislative-statement-climate-change-response-late-payment)

The Bill also made the following technical changes, which include:

- a clarified eligibility process for new industrial activities;
- a new methodology for resetting the electricity allocation factor (used in determining levels of industrial allocation). This has been updated as the current methodology is no longer accurate due to the electricity market developing differently to what was modelled;
- enabling easy updates to allocative baselines by using previously submitted data to reflect changes occurring in the NZ ETS and electricity market, without the need for consultation;
- better access to data submitted for industrial allocation applications.

### Changes to the Bill by the Environment Select Committee

The Environment Select Committee made the following changes to the Bill to:

- Retain the eligibility thresholds currently in the Act and require that eligibility for existing activities not be retested in the upcoming review and update of allocative baselines.
- Change the over-allocation test, so that allocative baselines are updated if the allocation from a unit of product is equal to or greater than 60% or 90% of emissions costs for that unit of product for moderately and highly emissions intensive activities respectively.
- Revise the additional test, so that the Minister of Climate Change must consider additional matters when granting eligibility for a new activity.
- Allow the use of projected data for new products in existing eligible industrial activities, when actual data is not available, to set the relevant allocative baseline/s.
- Allow emissions from combusting used tyres and consuming NZ ETS covered CO<sub>2</sub> as a feedstock to be counted in industrial allocation settings.
- Require the Environment Protection Authority to issue an initial notice to small forestry participants who fail to pay units on time, prior to making a decision on whether the participant was at fault for their failure to pay units.
- Extends legislative clarifications to provisions giving effect to the transitional arrangement currently in place for small forestry participants (until the end of 2024), effective from the day after the Bill receives Royal Assent.

The Environment Select Committee also made minor technical drafting changes to the Bill.