Reprint as at 5 December 2011



Climate Change Response Amendment Act 2011

Public Act 2011 No 15
Date of assent 17 May 2011
Commencement see section 2

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Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry for the Environment.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Climate Change Response Amendment Act 2011.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council; and 1 or more orders may be made bringing different provisions into force on different dates.
- (2) Any provision that has not earlier been brought into force comes into force on 1 December 2012.

Section 2: this Act brought into force, on 5 December 2011, by the Climate Change Response Amendment Act 2011 Commencement Order 2011 (SR 2011/320).

3 Principal Act amended

This Act amends the Climate Change Response Act 2002.

4 Interpretation

- (1) Section 4(1) is amended by repealing the definitions of **chief executive** and **chief executive responsible for the administration of this Act** and substituting the following definition: "**chief executive** means the chief executive of the department that is, with the authority of the Prime Minister, responsible for the administration of this Act".
- (2) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:
 - "Environmental Protection Authority or EPA means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011
 - "Registrar means the person appointed under section 11".
- (3) Section 4(1) is amended by repealing the definition of **inventory agency** and substituting the following definition: "**inventory agency** means the chief executive".
- (4) Section 4(1) is amended by repealing the definitions of **Minister** and **Minister responsible for the administration of this Act** and substituting the following definition:
 - "Minister means the Minister who is, under the authority of any warrant or under the authority of the Prime Minister, responsible for the administration of this Act".

5 Registrar must give effect to directions of Minister of Finance

- Section 8 is amended by adding the following subsection as subsection (2):
- "(2) To avoid doubt, the Crown Entities Act 2004 does not apply to a direction by the Minister of Finance to the Registrar."

6 New subpart 1A of Part 2 inserted

The following subpart is inserted after section 9:

"Subpart 1A—Chief executive

"9A Functions of chief executive

The functions of the chief executive are to—

- "(a) advise the Minister; and
- "(b) be the inventory agency; and

"(c) publish information on the Internet in accordance with this Act

"9B Delegation by chief executive

- "(1) The chief executive may delegate any of his or her functions, duties, and powers under this Act to the EPA.
- "(2) Section 41 of the State Sector Act 1988 applies to a delegation under this section as if the EPA were an employee of the chief executive."

7 Section 11 substituted

Section 11 is repealed and the following section substituted:

"11 EPA to appoint Registrar

The EPA must appoint an employee of the EPA as the Registrar."

8 Registrar responsible for Registry

Section 12 is amended by inserting ", on behalf of the Crown," after "operation".

9 Regulations relating to Part 2

Section 30G is amended by inserting the following subsection after subsection (3):

"(3A) The amount of fees set under regulations made under subsection (1)(f) must not exceed the amount necessary to enable the recovery of the direct and indirect costs of the Registrar in performing his or her functions under this Part."

10 Authorisation of inspectors

Section 36(1) is amended by adding "; or" and also by adding the following paragraph:

"(d) employees of the EPA."

11 Subpart 3 heading substituted

The heading to subpart 3 of Part 4 is repealed and the following heading substituted:

"Subpart 3—Environmental Protection Authority".

12 Functions of chief executive

- (1) Section 87 and the heading to section 87 are amended by omitting "chief executive" in each place where it appears and substituting in each case "EPA".
- (2) Section 87 is amended by adding the following subsection:
- "(3) For the avoidance of doubt, the EPA undertakes the functions described in subsection (1) on behalf of the Crown."

13 New section 87A inserted

The following section is inserted after section 87:

"87A Delegation by EPA

- "(1) The EPA must not delegate its power to appoint the Registrar under section 11.
- "(2) In all other respects, section 73 of the Crown Entities Act 2004 applies, except that subsection (1) of that section applies as if paragraph (d) were repealed and the following paragraph substituted:
 - "'(d) a person, or an office holder in a department of the Public Service, approved by the entity's responsible Minister:'."

14 Directions to chief executive

- (1) Section 88(1) and the heading to section 88 are amended by omitting "chief executive" in each place where it appears and substituting in each case "EPA".
- (2) Section 88(1) is amended by omitting "chief executive's" and substituting "EPA's".
- (3) Section 88(3)(b) is amended by omitting "department of the chief executive" and substituting "EPA".
- (4) Section 88 is amended by adding the following subsection:
- "(4) Before giving a direction under subsection (1), the Minister must comply with section 115(1) of the Crown Entities Act 2004."

15 Appointment of enforcement officers

- (1) Section 93 is amended by repealing subsections (1), (2), and (3) and substituting the following subsections:
- "(1) The EPA may appoint 1 or more persons who are employees of the EPA as enforcement officers to exercise 1 or more of the powers and perform the functions conferred on enforcement officers under this Part.
- "(2) If the EPA delegates the power to appoint a person as an enforcement officer to the chief executive of a department of the Public Service, the chief executive of the department may appoint a person as an enforcement officer only if the person is employed by a government department, in which case the chief executive must employ the person under the State Sector Act 1988.
- "(3) The EPA must supply each enforcement officer with a warrant of authorisation that clearly states the powers and functions of the officer."
- (2) Section 93(6) is repealed.

16 Obligation to maintain confidentiality

- (1) Section 99(1) is amended by repealing paragraph (a) and substituting the following paragraph:
 - "(a) to the chief executive, the EPA, an enforcement officer, and any other person who performs functions or exercises powers of the chief executive, the EPA, or an enforcement officer under this Part and Part 5; and".
- (2) Section 99(2)(b)(iii) is amended by inserting "or for the administration of this Act" after "this Part".
- (3) Section 99(2)(b) is amended by inserting the following paragraph after paragraph (iii):
 - "(iiia) for the purposes of, or in connection with, reporting requirements of the Public Finance Act 1989; or".
- (4) Section 99(4) is amended by inserting "or the EPA" after "chief executive" in each place where it appears.

17 New section 138A

The following section is inserted after section 138:

"138A Penalties to be paid into Crown account

The EPA must pay the amount of all excess emissions penalties and interest on the penalties received from a person in accordance with section 134, 136, or 137 into a Crown Bank Account."

18 Regulations relating to methodologies and verifiers

- (1) Section 163(1)(ab), (c), (d), and (e)(v) are amended by omitting "chief executive" and substituting in each case "EPA".
- (2) Section 163(1)(e)(vii) is amended by omitting "for recognition of" and substituting "to enable the recovery of the direct and indirect costs of the EPA in recognising".
- (3) Section 163(4)(b) is amended by omitting "department of the chief executive" and substituting "EPA".

19 Minor amendments

The Act and the Climate Change Response (Emissions Trading) Amendment Act 2008 are amended in the manner set out in the Schedule.

Schedule

s 19

Minor and consequential amendments to climate change legislation

Climate Change Response Act 2002 (2002 No 40)

Section 2B(3)(a): omit "chief executive responsible for the administration of Parts 4 and 5 of this Act" and substitute "EPA".

Section 2C(5)(b): omit "chief executive" and substitute "EPA".

Section 3(3): omit "a Minister or chief executive with powers and functions under this Act" and substitute "the Minister or the EPA".

Section 3A(i): omit "responsible for the administration of this Act".

Section 14: omit "or chief executive authorised to give such direction in accordance with a provision in Part 4 or 5 of this Act" and substitute "authorised to give such directions in accordance with a provision in Part 4 or 5 of this Act or the EPA".

Section 17A(1): insert "by the EPA or" after "employed".

Section 18B(2), (6), and (7): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 18CA(3) and (4): omit "chief executive of the department responsible for the administration of Part 4" and substitute in each case "EPA".

Section 18CD(2)(b) and (3)(a) and (b): omit "chief executive of the department responsible for the administration of Part 4" and substitute in each case "EPA".

Section 21(1): omit "a Minister or chief executive authorised to give the direction under a provision of this Act" and substitute "the Minister authorised to give the direction under a provision of this Act or the EPA".

Section 21(1)(c)(ii)(A): omit "chief executive" and substitute "the EPA".

Section 21(2)(c)(i): omit "chief executive" and substitute "the EPA". Section 21(3)(d)(i): omit "chief executive" and substitute "the EPA".

Section 21AA(1): omit "by a Minister or chief executive authorised to give the direction under a provision of this Act" and substitute "by a Minister authorised to give the direction under a provision of this Act or the EPA".

Section 21AA(1)(c)(ii)(A): omit "chief executive" and substitute "the EPA".

Section 21AA(2)(c)(i): omit "chief executive" and substitute "the EPA".

Section 21AA(3)(d)(i): omit "chief executive" and substitute "the EPA".

Section 21A: omit "a Minister or chief executive" and substitute "the Minister or the EPA".

Section 24(1): omit "a Minister or chief executive" and substitute "the Minister or the EPA".

Section 25(1)(a): repeal and substitute:

"(a) the Minister or the EPA who gave the direction, if the Registrar registered the transaction following receipt of a direction from the Minister or the EPA; or".

Section 30: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 49: omit "responsible for the administration of this Act".

Section 54(5): omit and substitute:

"(5) The EPA must ensure that the registers, or the information contained in the registers, kept for the purposes of section 56 or 57 are open for public inspection, without fee, on the EPA's Internet site and in any other form the EPA considers appropriate."

Section 56: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 57: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 58: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 59: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 62: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 63(2): omit "chief executive" and substitute "EPA".

Section 64: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 65(1): omit "chief executive" and substitute "EPA".

Section 67(1): omit "chief executive" and substitute "EPA".

Section 68(4)(b): omit "the department of the chief executive responsible for the administration of this Act" and substitute "the EPA".

Section 69(4): omit "the department of the chief executive responsible for the administration of this Act" and substitute "the EPA".

Section 77(8)(c): omit "the department of the chief executive responsible for the administration of this Act" and substitute "the EPA".

Section 77(10): omit "chief executive" and substitute "EPA".

Section 83(3) and (6): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 84(1)(c) and (2): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 84(2)(c): omit "chief executive's" and substitute "EPA's".

Section 86(1) and (2)(c): omit "chief executive" and substitute "EPA".

Section 86B: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 86B(1)(b) and (3)(a): omit "chief executive's" and substitute in each case "EPA's".

Section 86B(5)(b): omit "the department of the chief executive responsible for the administration of this Act" and substitute "the EPA".

Section 86C: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 86C(1): omit "chief executive's" and substitute "EPA's".

Section 86D: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 86E and the heading to section 86E: omit "Minister or chief executive" in each place where it appears and substitute in each case "Minister or EPA or chief executive".

Section 89 and the heading to section 89: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 90 and the heading to section 90: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 90(2): omit "the department of the chief executive" and substitute "the EPA".

Section 91: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 92(1) and (3): omit "chief executive" and substitute in each case "EPA".

Section 94: omit "chief executive or an enforcement officer" in each place where it appears and substitute in each case "EPA, the chief executive, or an enforcement officer".

Section 94(1)(b): omit "chief executive should" and substitute "EPA or the chief executive, as appropriate, should".

Section 95: omit "chief executive may" and substitute "EPA or the chief executive may".

Section 95(1)(a) and (2): omit "chief executive" in each place where it appears and substitute in each case "EPA, or the chief executive,".

Section 96(1): omit "chief executive, if the chief executive" and substitute "EPA or the chief executive, if the EPA or the chief executive, as appropriate,".

Section 96(2)(a)(i) and (3): omit "chief executive" and substitute in each case "the EPA, the chief executive,".

Section 98: repeal and substitute:

"98 Expenses in relation to inquiries

The EPA or the chief executive may pay, or a District Court Judge may order the EPA or the chief executive to pay, to any person who has appeared before the EPA, or the chief executive, or an enforcement officer under section 95 or the District Court Judge under section 96 the sum that in the EPA's, or the chief executive's, or the Judge's opinion, as the case may be, is reasonable in respect of that person's travelling and other expenses."

Section 101(1): omit "chief executive" and substitute "EPA".

Section 107(1) and (3): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 108 and the heading to section 108: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 108(2)(g): omit "chief executive's" and substitute "EPA's".

Section 109(1): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 110: omit "chief executive" and substitute "EPA".

Section 111: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 112 and the heading to section 112: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 113(1) and (2): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 114(1)(d): omit "chief executive" and substitute "EPA".

Heading to section 115: omit "chief executive" and substitute "EPA".

Section 116(2): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 117(1) and (2) and the heading to section 117: omit "chief executive" and substitute in each case "EPA".

Section 118(1)(a), (2), and (4)(a)(i): omit "chief executive" and substitute in each case "EPA".

Section 119: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 120 and the heading to section 120: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 121: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 123: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 124 and the heading to section 124: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 125(1): omit "chief executive" and substitute "EPA".

Section 126(2) and (3): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 127: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 128: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 129(1)(b): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 131(1)(a) and (b): omit "chief executive" and substitute in each case "EPA".

Section 132(1)(da) and (f): omit "chief executive" and substitute in each case "EPA".

Section 133(1)(ba), (d), and (e): omit "chief executive" and substitute in each case "EPA".

Section 134: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 135: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 136: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 137: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 137(5): omit "chief executive's" and substitute "EPA's".

Section 138: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 143(1)(a): omit "by the chief executive, or by a delegate of the chief executive" and substitute "by a delegate of the EPA".

Section 144: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 145(1): omit "chief executive" and substitute "EPA".

Section 147 and the heading to section 147: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 148(1) and the heading to section 148: omit "chief executive" and substitute in each case "EPA".

Section 148(2)(b)(i): repeal and substitute:

"(i) give the notice to the EPA at the office of the EPA:".

Section 150: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 150(5): omit "chief executive's" and substitute "EPA's".

Section 151: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 151(3): omit "chief executive's" and substitute "EPA's".

Section 151A: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 151A(3): omit "chief executive's" and substitute "EPA's".

Section 152(3) and (4): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 153(3): omit "chief executive" and substitute "EPA".

Section 155: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 156A: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 156A(3): omit "chief executive's" and substitute "EPA's".

Section 157(2): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 157A: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 157A(2)(b): omit "chief executive's" in each place where it appears and substitute in each case "EPA's".

Section 160: omit "responsible for the administration of this Act" in each place where it appears.

Section 161: omit "responsible for the administration of this Act" in each place where it appears.

Section 164(a): omit "chief executive" and substitute "EPA".

Section 167(2) and (4): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 168(1)(ca) and (f): omit "chief executive" and substitute in each case "EPA".

Section 178: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 179(3): omit "chief executive's" and substitute "EPA's".

Section 179(3): omit "chief executive" and substitute "EPA".

Section 180(1) and (2): omit "chief executive" and substitute in each case "EPA".

Section 183: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 184: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 187(2)(a): omit "chief executive" and substitute "EPA".

Section 188: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 189(7)(d) and (8)(d)(ii): omit "chief executive" and substitute in each case "EPA".

Section 191(1)(a): omit "chief executive" and substitute "EPA".

Section 192(3), (6), and (7): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 192(6)(d): omit "chief executive's" and substitute "EPA's".

Section 194(1): omit "chief executive" and substitute "EPA".

Section 195(1): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 196(5) and (7): omit "chief executive" and substitute in each case "EPA".

Section 198: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 199 and the heading to section 199: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 200: omit "chief executive" in each case where it appears and substitute in each case "EPA".

Section 209: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 210 and the heading to section 210: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 211: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 213: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 217(2)(b): omit "chief executive" and substitute "EPA".

Section 218: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 222C(1)(b) and (2)(a) and (b): omit "chief executive" and substitute in each case "EPA".

Section 222D: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 222E(2): omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 222H: omit "chief executive" in each place where it appears and substitute in each case "EPA".

Section 224: omit "responsible for the administration of this Act" in each place where it appears.

Section 225(1) and (3): omit "responsible for the administration of this Act".

Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85)

Section 50: new section 182: omit "chief executive" in each place where it appears and substitute in each case "EPA".

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Contents

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- 2 Status of reprints
- 3 How reprints are prepared
- 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
- 5 List of amendments incorporated in this reprint (most recent first)

Notes

1 General

This is a reprint of the Climate Change Response Amendment Act 2011. The reprint incorporates all the amendments to the Act as at 5 December 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Climate Change Response Amendment Act 2011 Commencement Order 2011 (SR 2011/320)