

Climate Change Response Amendment Bill

Government Bill

Explanatory note

General policy statement

The Bill deals with 2 issues. First, it amends the Climate Change Response Act 2002 (“the principal Act”) in respect of the function of New Zealand’s Kyoto Protocol Registry. Under the Kyoto Protocol, New Zealand is required to develop and maintain a registry to ensure the accurate accounting of emission units. The purpose of the Registry is to: ensure the accurate accounting of units; ensure the accurate, transparent, and efficient exchange of information between registry systems; and facilitate the exchange of information between the registrar and the Minister of Finance. Units are defined as the various types of units specified under the Kyoto Protocol that the Crown may offset against New Zealand’s greenhouse gas emissions during the first commitment period (2008–2012).

Several domestic climate change policies and the clean development and joint implementation mechanisms under the Kyoto Protocol will require the Crown to transfer units to New Zealand businesses and individuals. The Bill will therefore allow individuals (ie, entities other than the Crown) to hold accounts in the Registry and to trade in emission units.

The Bill will also provide for the accounting of 2 new types of units in the Registry, which were created by international decisions taken in 2003, and will make several amendments to provide for the efficient administration of the Registry.

Second, the Bill also extends the regulation-making powers of the Forests Act 1949 to enable the establishment of a mechanism to allow landowners to access the value, created under the Kyoto Protocol, of carbon from newly established permanent forest sinks.

The mechanism will be a contract (registered against land titles) between the Crown and a landowner. The Crown will agree to devolve an amount of tradeable carbon emission units equal to the amount of carbon contained in new permanent forest sinks over the Kyoto Protocol's first commitment period (2008–2012). Obligations under the contract will be registered against land titles and will run with and bind the land.

The scheme will also allow for a limited timber harvest under continuous canopy management after a minimum non-harvest period of 35 years. The mechanism will allow landowners to make better economic use of their land, particularly isolated and erodible land not suitable for agriculture and forestry. The mechanism will also likely result in positive environmental outcomes for biodiversity, and soil and water conservation.

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 relates to commencement. *Clause 5* comes into force on the date that section 7 of the principal Act comes into force. *Clauses 12, 15, 19, and 21* come into force on the date that section 10 of the principal Act comes into force. Each provision of *clauses 4, 6 to 11, 13, 14, 16 to 18, 20, 26, and 27* comes into force on the date that the provision of the principal Act that it amends comes into force. The relevant sections and provisions of the principal Act come into force on a date, or dates, specified by Order in Council made under the principal Act. The rest of this Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to principal Act

Clause 3 amends section 3 of the principal Act, which concerns the purpose of the principal Act. The amendment inserts the word “first” before the words “commitment period”.

Clause 4 amends section 4 of the principal Act, which concerns interpretation. The amendments set out the new terms to be used in the principal Act.

Clause 5 amends section 7 of the principal Act, which concerns directions by the Minister of Finance to the Registrar regarding accounts and units. The amendments provide that directions may also be given with respect to long-term certified emission reduction

replacement accounts, temporary certified emission reduction replacement accounts, long-term certified emission reduction units, and temporary certified emission reduction units.

Clause 6 inserts *new section 8A* into the principal Act. *New section 8A* requires the Minister of Finance to publish his or her directions.

Clause 7 amends section 9 of the principal Act, which concerns the Minister of Finance's ability to obtain information from the inventory agency and the Registrar. The amendments allow the Minister of Finance to obtain information for the purposes of discharging the reporting obligations set out in section 32(1)(b) of the principal Act.

Clause 8 amends section 10 of the principal Act, which concerns the purpose of the Registry. The amendment includes within the purpose the accurate accounting of the replacement of expired long-term certified emission reduction units and expired temporary certified emission reductions units.

Clause 9 replaces section 13 of the principal Act, which concerns the Registrar's refusal of access to, or suspension of, the Registry. The amendments clarify the circumstances in which either course of action may be taken.

Clause 10 amends section 14 of the principal Act, which requires the Registrar to give effect to directions given by the Minister responsible for the Registry. The amendment requires the Minister responsible for the Registry to publish his or her directions on the Registry's Internet site.

Clause 11 replaces section 16 of the principal Act, which concerns the carry-over of units. The amendments specify the procedure with respect to the carry-over of units.

Clause 12 amends section 18 of the principal Act, which concerns the form and content of the unit register. The amendments clarify the matters that must be recorded in the unit register. They also provide that a unit recorded in the register is indivisible and transferable within the unit register and between the unit register and overseas registries.

Clause 13 inserts *new sections 18A to 18E* into the principal Act. *New section 18A* sets out the procedure for opening holding accounts, while *new section 18B* sets out the procedure for closing them. *New section 18C* sets out the procedure for transferring units. *New section 18D* concerns succession. *New section 18E* concerns trusts, representatives, and assignees of bankrupts.

Clause 14 amends section 20 of the principal Act, which concerns the registration of transactions. The amendments set out the circumstances in which the Registrar must not register a transaction on the unit register.

Clause 15 amends section 21 of the principal Act, which concerns the procedure for registering transactions. The amendments clarify what the Registrar must do with respect to transactions that must be recorded in the unit register.

Clause 16 amends the principal Act by inserting *new sections 21A and 21B*. *New section 21A* provides for electronic registration of transactions. *New section 21B* sets out the procedure with respect to defective applications.

Clause 17 amends section 23 of the principal Act. The amendments provide that a transfer of units from an overseas registry is subject to regulations made under the principal Act. They also clarify the procedure with respect to receiving units from overseas registries.

Clause 18 amends section 24 of the principal Act, which concerns priority of registration. The amendments provide for directions, as well as applications, to be processed in the order in which they were received.

Clause 19 replaces section 25 of the principal Act, which concerns the correction of the unit register. The amendments set out the procedure by which an account holder who has registered a transaction or the Minister of Finance may correct any inaccuracy recorded in the unit register with respect to that transaction.

Clause 20 amends section 26 of the principal Act, which requires that the unit register must be open for searches. The amendment clarifies that searches must be possible via the Registry's Internet site.

Clause 21 amends section 27 of the principal Act, which concerns the information that is accessible by searches. The amendment clarifies that certain information must be accessible by a search of the unit register via the Registry's Internet site.

Clause 22 amends sections 28 and 29 of the principal Act, which requires the Registrar to issue search copies. The amendments clarify the requirement.

Clause 23 inserts *new sections 30A to 30D* into the principal Act. *New section 30A* provides that no action may be brought against the

Crown or Registrar for any loss or damage resulting from an inaccuracy in a search of the unit register or an inaccurate entry in the unit register. *New section 30B* sets out the provisions with respect to the expiry of long-term certified emission reduction units. *New section 30C* sets out the provisions with respect to the replacement of certain long-term certified emission reduction units. *New section 30D* sets out the provisions with respect to the expiry of temporary certified emission reduction units.

Clause 24 amends section 32 of the principal Act, which concerns the primary functions of the inventory agency. The amendment clarifies that one of the inventory agency's functions is to prepare annual inventory reports that include the quantities of long-term certified emission reduction units and temporary certified emission reduction units that have expired or have been replaced, retired, or cancelled.

Clause 25 amends section 33 of the principal Act, which provides that the inventory agency is under the direction of the Minister responsible for the inventory agency. The amendment clarifies that directions of the Minister responsible for the inventory agency must be accessible via the inventory agency's Internet site.

Clause 26 replaces section 35 of the principal Act, which concerns the publication of New Zealand's annual inventory report and its national communication. The amendment provides that the inventory agency must publish New Zealand's annual inventory report and its national communication (or periodic report) in electronic form by placing the report on a publicly accessible portion of the inventory agency's Internet site.

Clause 27 inserts *new section 48A* into the principal Act. *New section 48A* provides that every person who knowingly provides false or misleading information to the Registrar commits an offence, and is liable to a fine not exceeding \$50,000, in the case of an individual, or \$200,000, in the case of a body corporate. It also provides that every person who recklessly provides false or misleading information to the Registrar commits an offence and is liable on conviction to a fine not exceeding \$2,000.

Clause 28 amends section 50 of the principal Act, which concerns regulations. The amendments clarify that regulations may be made prescribing matters in respect of the opening and closing of holding accounts and the transfer of units, and prescribing matters in respect of the carry-over, acquisition, transfer, and cancellation of units.

Clause 29 amends section 51 of the principal Act, which concerns incorporation by reference. The amendments replace the words “at the Registry’s head office and via the Internet” with the words “via the Registry’s Internet site”.

Part 2

Amendments to other Acts

Clause 30 inserts *new Part 3B (new sections 67W to 67ZQ)* into the Forests Act 1949. *New section 67W* sets out the purpose of *new Part 3B*, which is to provide a mechanism to allow landowners to access the value of sequestering carbon on land through the establishment of forest sink covenants. *New section 67X* relates to the interpretation of *new Part 3B*. *New section 67Y* concerns regulation-making powers for forest sink covenants. *New section 67Z* concerns the context of forest sink covenants. *New section 67ZA* provides that a landowner intending to enter into, vary, or cancel a forest sink covenant must obtain the written consent of each person with an interest in the affected land. *New section 67ZB* provides that nothing in *new Part 3B* makes the Crown liable to any person for compensation or damages with respect of any matter arising from a forest sink covenant. *New section 67ZC* provides that section 126G of the Property Law Act 1952 does not apply to forest sink covenants. *New section 67ZD* requires the registration of forest sink covenants or agreements under the Land Transfer Act 1952, and sets out the relevant procedures. *New section 67ZE* provides that if a forest sink covenant is varied, cancelled, or terminated, the Minister must give notice to the Registrar-General of Land. *New section 67ZF* requires the Minister to take all reasonable steps to ensure that direct and indirect costs of administering *new Part 3B* that are not provided for by money appropriated by Parliament are recovered. *New section 67ZG* sets out the methods of cost recovery. *New section 67ZH* provides that cost recovery relates to the financial year. *New section 67ZI* provides that the Minister may review the levels and methods of cost recovery. *New section 67ZJ* provides that regulations may be made prescribing fees and charges for the purposes of *new Part 3B*. *New section 67ZK* provides for levies. *New section 67ZL* specifies the contents of levy orders. *New section 67ZM* requires persons who collect levies to keep trust accounts. *New section 67ZN* provides that any fee, levy, or charge that becomes payable is a debt due to the Secretary, and is recoverable by the Secretary as a debt in any court of competent jurisdiction. *New section 67ZO* sets out the penalties

for failure to pay a fee, levy, or charge. *New section 67ZP* provides that an obligation of a person to pay any fee, levy, charge, or penalty is not suspended by any dispute between that person and the Secretary regarding liability to pay the fee, levy, charge, or penalty. *New section 67ZQ* provides for the automatic revocation of levy regulations unless they are confirmed.

Clause 31 amends section 2 of the Forestry Rights Registration Act 1983, which concerns interpretation. The amendments add new terminology to the Forestry Rights Registration Act 1983 to align with the new terminology added to the Forests Act 1949.

Clause 32 amends Part 1 of Schedule 2 of the Privacy Act 1993, which concerns public registers. The amendment adds sections 18, 20, 26A, 27, and 28 of the principal Act to the list of sections set out in that schedule.

Regulatory impact statement

New Zealand Kyoto registry functions

Background

The Climate Change Response Act 2002 (CCRA) was enacted to enable New Zealand to meet its obligations under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol.

The CCRA provides for a registry to, among other functions, ensure the accurate accounting of units and ensure the accurate, transparent, and efficient exchange of information between registry systems (ie, between the New Zealand register and international systems). Units of various types are specified under the Kyoto Protocol and the Crown may offset units against greenhouse gas emissions in order to meet its emission obligations under the Kyoto Protocol (1 unit offsets 1 tonne of carbon dioxide). Subject to the entry into force of the Kyoto Protocol and the development of an international market, units could have a monetary value (for example, a value of \$15 per tonne of carbon dioxide was assumed in the Ministry of Economic Development's Energy Outlook published in 2003).

The registry must have a unit register that contains a record of holdings of units and particulars of unit transactions. The unit register is an electronic database accessible over the Internet with publicly accessible aspects and authorised user features. The unit register could operate in a similar way to internet banking or on-line share trading and registry systems.

Statement of the nature and magnitude of the problem and the need for government action

The Government has announced and is implementing its climate change policy package, including—

- a “projects to reduce emissions” mechanism where firms tender projects that reduce or avoid emissions in exchange for the Crown delivering units from 2008, at the earliest; and
- negotiated greenhouse agreements (NGAs) for firms who are deemed to be “competitiveness at risk” (if faced with the impact of a carbon charge) and who commit to a target for emissions or emission-intensity. The Government would transfer units to firms if they over-comply with the target, conversely firms may transfer units to the Government if they under-comply with the target; and
- a permanent forest sink initiative that would allow landowners to receive units in proportion to the carbon sequestered in newly established forests that will be for permanent protection.

All 3 policies would potentially require the Crown to transfer units to legal entities (ie, private individuals or firms) in recognition of the performance of certain obligations by those entities. New Zealand legal entities may voluntarily participate in emission reduction projects in developing countries under the Kyoto Protocol’s clean development mechanism (CDM) and joint implementation mechanism (JIM). Repatriation of any units earned by the entity under the CDM to the New Zealand registry would require the entity to have an account. At present, the CCRA does not provide for accounts or units to be held by legal entities other than the Crown.

Note that amendments in this Bill relating to providing for the accounting of 2 new types of units do not require a statement of regulatory impact as they are minor and machinery in nature.

Statement of the public policy objective(s)

To allow legal entities to receive, hold, or dispose of any units awarded in recognition of performing their obligations under arrangements with the Crown in relation to its climate change policy or under the Kyoto Protocol’s flexibility mechanisms.

Statement of feasible options

Status quo

Under the CCRA, only the Crown or its agents may hold units in accounts in the registry.

Amending the CCRA (the preferred option)

The CCRA would be amended to allow legal entities to—

- (a) open and close accounts;
- (b) acquire, transfer, and carry-over units;
- (c) register transactions.

In addition the CCRA would be amended to provide for—

- (a) prescribing fees for establishing accounts, registering transactions, and searching the register (any such fees are expected to be low and in line with other registries, eg, in the range of \$5 to \$25 depending on the action); and
- (b) disclosure of information in relation to accounts and unit holdings through searches; and
- (c) searching the registry and no Crown liability in relation to searches; and
- (d) offences and penalties (eg, up to \$50,000 for an individual and up to \$200,000 for a company) relating to knowingly providing false or misleading information to the Registrar.

Statement of net benefits

Government

For the Government the benefits of the proposal are that it will give effect to government policies that recognise the performance of emission obligations under NGAs, the “projects to reduce emissions” mechanism, and sink enhancement activities under the permanent forest sink initiative. The potential to receive units is a key incentive for legal entities (albeit one that is of uncertain value at the current time) to enter into these arrangements. These policies are significant elements of the Government’s policy package to address emissions of greenhouse gases and also promote renewable energy and energy efficiency objectives. Allowing legal entities to hold and transact units, together with the above policies, can also encourage the identification and creation of business opportunities associated with reducing emissions domestically or, via the CDM or the JIM, internationally.

The costs to the Government of implementing the proposal are likely to be small or negligible, within the context of the overall costs to develop and administer the registry and unit register functions by the Ministry of Economic Development. By amending the legislation now to provide for entity accounts, these requirements can be incorporated into the front end of the IT process for designing and developing the unit register without any significant additional cost. There would be some additional administration costs in the order of \$100,000 to \$250,000 per annum, mainly associated with providing publicity and information to potential users and developing on-line help or call centre based assistance.

Legal entities

The proposals will benefit entities who choose to enter into arrangements with the Government under NGAs, the “projects to reduce emissions” mechanism, or the permanent forest sink initiative by allowing them to receive, hold, and dispose of any units they receive in recognition of performing their obligations under such arrangements. In addition, any New Zealand firms that choose to participate in the CDM or JIM under the Kyoto Protocol or any international market that emerges would be able to repatriate or transfer units to accounts in the New Zealand registry.

There would also be benefits in allowing legal entities to hold accounts and units for speculative or other reasons. Allowing broad participation is consistent with supporting the development of the international market and encouraging the creation of opportunities for new business activities (eg, brokers to manage risk or market projects both domestically and internationally).

The proposal does not require any specific individuals or businesses to hold accounts. There would be a procedure for individuals or firms who choose to apply to open accounts and, depending on any cost recovery options adopted, there might be related account opening fees. Any account opening fees would be small and in line with fees for similar registries (ie, between \$5 and \$25). Nominal fees may also be specified for certified copies of the information held in non-Internet searches of the registry. There may also be minimal transaction or usage fees for account holders, depending on any cost recovery options adopted.

Statement of consultation undertaken

The following government departments were consulted in the development of the legislative proposal and did not raise any significant concerns: Ministry of Agriculture and Forestry, Ministry for the Environment (**Climate Change Office**), the Treasury, the Department of the Prime Minister and Cabinet; the Ministry of Justice, and Te Puni Kokiri.

The intention for individuals to hold units in accounts in the registry was signalled in consultation on the legislation proposed as part of the Government's preferred domestic climate change policy package in 2001. At that time, several submitters endorsed providing for individuals to hold accounts in the registry and none opposed it. The need to amend the CCRA to provide for the delivery of units via the unit register in relation to NGAs and the projects mechanism was also signalled in consultation on those policies in 2002/03.

Business compliance cost statement

There will be some one-off costs associated with learning how to use the unit register to open accounts and undertake transactions and on-going costs relating to filling in electronic forms for transactions (disclosing information readily available to the applicant).

Parties likely to be affected are those individuals and firms who enter into NGAs, the "projects to reduce emissions" mechanism, the permanent forest sinks initiative or potentially those New Zealand entities who participate in projects under the CDM or JIM. There may be around 20 firms and individuals entering into these arrangements with the Government each year. Such firms may range from electricity companies through to individual landowners. In addition, some individuals or firms may choose to open accounts in the register for speculative or other reasons.

The extent and magnitude of these costs cannot be quantified but is likely to be relatively minor. By way of example, the unit register is likely to have a similar level of complexity as other on-line registers or Internet banking.

The unit register will be electronic and Internet accessible. Its development would include user group testing and either on-line or call centre help would be available to users. Information regarding the unit register would be disseminated publicly, but its timing and nature are yet to be determined.

Regulatory impact statement

Permanent forest sink initiative

Background

The CCRA was enacted to enable New Zealand to meet its obligations under the UNFCCC and the Kyoto Protocol. In addition to taking on certain obligations, ratification of the Protocol opens commercial opportunities for New Zealand.

One such opportunity is the ability of the Government to claim forest sink credits generated from carbon sequestration following the establishment of new forests on previously unforested land (“carbon sequestration” refers to the process of removing CO₂ from the atmosphere through photosynthesis and storing increasing amounts of this CO₂ as carbon in biomass). The Government has decided that a voluntary mechanism should be put in place to allow individual landowners to take advantage of this opportunity under certain circumstances.

The mechanism proposed (the permanent forest sink initiative) would essentially be a contract between the Crown and a landowner that would facilitate the new commercial activity of “carbon sequestration”. Under these contracts, the Crown would agree to provide an amount of tradeable carbon emission units equal to the amount of carbon sequestered by new forests on a given block of land over certain time periods. In return, landowners would contract with the Crown to harvest trees only under certain conditions from the newly established forests.

Statement of problem and need for action

Generating sink credits through sequestering carbon is governed by the rules of the Kyoto Protocol, its Marrakech Accords, and Good Practice Guidance (currently under development). These rules must be reflected in the implementation of the mechanism, and consequently provided for in an appropriate legal framework, in order to ensure that:

- activities carried out under it generate sink credits; and
- landowners are exposed to the true costs, risks, and returns associated with sequestering carbon as a commercial activity.

Current legal frameworks do not allow contracts that adequately address the perpetual nature of the costs and contingent liabilities associated with carbon sequestration or the geographically-specific

nature of these activities. Legislative backing is therefore required to ensure that—

- there are no inherent “subsidies” to participating landowners, which may result in over-participation in the mechanism and “losses” elsewhere in the economy; and
- the Crown does not have to meet any ongoing costs and/or liabilities should they arise.

Government policy decisions requiring covenants by landowners require additional legislative backing, particularly in relation to the registration of agreements (contracts) against land titles and an enforcement (search and seizure) and penalty regime.

Failure to adequately address these issues could result in forests planted for commercial timber production being included in the mechanism. This may create incentives for existing forest owners to deforest their current forested lands and replant elsewhere to earn sink credits. This in turn could have major negative implications for New Zealand’s emission liabilities, as deforestation of land is considered a source of greenhouse gas emissions under the rules of the Kyoto Protocol.

Statement of public policy objective

A principal objective is to contribute to New Zealand’s response to climate change by—

- encouraging additional sequestration of carbon by forests; and
- encouraging the development of a trading market for greenhouse gas emission units.

Statement of options for achieving desired policy objective

Status quo: implement agreements (contracts) under existing legal framework

Consideration was given as to whether the Government’s policy could be implemented using existing legal frameworks to enter normal contractual arrangements with landowners and other legal entities. Under this option, legal entities would contract with the Crown, inter alia,—

- not to harvest the trees before 35 years and only then on a continuous canopy management basis; and
- to meet any liabilities arising from losses of carbon; and

- to meet any ongoing monitoring costs.

The Crown for its part would contract to supply emissions units equal to the verified amount of carbon sequestered, provided specified conditions were met.

However, as normal contractual arrangements cannot bind and run with land, this option was rejected because it may not provide ongoing certainty with respect to assigning the contingent liabilities created whenever carbon is sequestered and sink credits are issued. There was concern that normal contracts would not sufficiently protect the Crown's interests in cases of insolvency or winding up of a company. It may also create uncertainty if the legal entity with which the Crown had contracted sold the land.

As the activities upon the land determine the extent of any future liabilities, it was considered important that the liabilities and obligations imposed under the mechanism should apply to the current landowner, who would presumably be in the best position to manage such liabilities. This outcome could not be assured under current legal frameworks.

Ordinary contractual arrangements would not allow the establishment of an enforcement and penalty regime that would adequately address the national level risks to the Crown that could occur if participants do not honour their non-harvest obligations. The absence of such provisions would jeopardise the establishment of the mechanism because, as discussed above, it could create incentives to deforest land and significantly increase New Zealand's liabilities under the Kyoto Protocol.

Preferred option: new legislation

New legislation would provide for the rights and obligations associated with the activity of commercial carbon sequestration to be registered as a covenant against land titles. This will ensure that the rights and obligations bind and run with the land upon which the activity is undertaken, which is considered the most appropriate way to provide a legal framework that properly reflects the ongoing nature of these rights and obligations.

In addition, new legislation would allow the establishment of a penalty and enforcement regime, including search and seizure provisions. This will help to ensure that the Government is not exposed to the potentially considerable fiscal costs that could result if landowners breach their obligations under this mechanism.

Without limiting the ability of the parties to agree with whatever provisions they see fit, legislation could provide for some or all of the following:

- (a) a framework for agreeing and registering against land title an obligation not to harvest timber from the land that can take effect in perpetuity or for a specified term; and
- (b) a framework for agreeing and registering against land title any other obligations the Crown may require as part of the agreement, for example implementing forest management plans and ongoing monitoring requirements; and
- (c) a framework for agreeing and registering against the land title the landowner's obligations in the event that there is a loss of carbon from the forest resulting in a liability on the Crown for an emission; and
- (d) a framework for agreeing and registering against the land title the landowner's rights with regard to receiving future emission units; and
- (e) providing for any perpetual liabilities, obligations, and rights associated with the permanent forest to apply to the current landowner; and
- (f) an enforcement and penalty regime in the case of material breaches of the covenant, including powers of search and seizure; and
- (g) a framework to allow establishment of permanent forests to be conducted as joint ventures under Forestry Rights legislation.

Statement of net benefit of this proposal

Government

The benefits to the Government of this proposal are largely environmental. The mechanism is likely to focus on highly marginal farmland, which may be unsustainable for agriculture and unsuitable for production forestry. Benefits in retiring marginal land include biodiversity enhancement, soil and water conservation, and improved flood protection.

Some reduction in emissions from agricultural sources might also be expected as new permanent forest displaces pastoral agriculture. Reducing emissions in this way might reduce the cost of New Zealand's emission obligations in the order of \$50 to \$100 per hectare per year of the commitment period.

The direct costs to the Government are likely to be minor as it is anticipated that, except during the first year of operation, all costs associated with administering and managing the mechanism will be recovered from landowners participating in it. The mechanism will be administered by the Indigenous Forest Unit of the Ministry of Agriculture and Forestry, which has existing skills and experience relevant to this proposal. This will minimise overhead costs and allow maximum flexibility to adjust government staffing levels to match demand for services from landowners. Ongoing government staffing estimates are based on 2 full-time positions, the costs of which would be borne by the Crown in the first year only. These costs are estimated at \$0.24 million (inclusive of goods and services tax) per year, but will increase or decrease depending on demand for services.

A further potential cost to the Crown arises from the risk that over time the Crown may be left holding residual responsibilities for abandoned land that carries ongoing monitoring obligations and contingent carbon liabilities. These risks (and possible costs) are likely to be negligible relative to the overall responsibilities of the Crown for monitoring the carbon in all of New Zealand's forests and its contingent liabilities for the deforestation of all indigenous forest on Crown land.

Landowners

The mechanism will allow landowners to consider alternative and potentially more profitable uses for marginal farmland. To provide an indication of possible returns, manuka–kanuka scrub on the East Coast might generate gross returns of \$120 to \$300 per hectare per year at \$10 to \$25 per tonne CO₂ respectively. The price of carbon is particularly important in estimating returns, but cannot be estimated accurately until a number of international variables become clearer. Some landowners may also generate further returns from non-timber forest outputs such as hunting licences, honey production, and tourism operations.

Because using the mechanism would often require little capital to initiate it, it may be of particular interest to Maori landowners. The mechanism incorporates the ability for Maori landowners to harvest some timber products for cultural uses under certain circumstances.

Costs to landowners will include cash and non-cash costs. At this stage it is not possible to accurately predict cash costs as the standards for forest management, measurement, and verification will be

designed to be consistent with international requirements, and these are still under development. However, an indication of cash costs might include—

- legal fees and costs of developing agreements and registering these against land titles (in the order of a few hundred to a few thousand dollars);
- development and implementation of forest management plans (these may be completed by landowners with little financial cost);
- carrying insurance to cover potential losses of carbon (insurance costs are typically \$10 to \$20 per hectare for normal forest investments);
- periodic forest measurement and verification (which may be around an average of \$25 per hectare per year of the first commitment period).

Non-cash costs would include loss of agricultural production from the land and reduced land value over time as some land use options are no longer available and as the forest nears the end of its period of net carbon sequestration. These costs are also difficult to estimate, but are likely to be small given the low quality of land likely to be retired from production under this mechanism.

Wider economy

The mechanism will encourage:

- additional sequestration of carbon by forests; and
- the development of a trading market for greenhouse gas emission units.

Both these outcomes will provide additional flexibility to companies seeking to minimise their net emissions to the atmosphere. This may be particularly relevant for companies with NGAs, as for these companies commercial carbon sequestration may provide a least-cost option to meet their obligations under their specific NGAs. Similarly, if future governments decide to move to an emissions trading regime (where large emitters take responsibility for meeting their own emission liabilities), this mechanism may well provide an efficient least-cost option for off-setting emission liabilities.

Developing a larger trading market for greenhouse gas emission units in New Zealand should have spin-off benefits in terms of increasing the marketability of such units and reducing the cost per unit of transactions.

Consultation undertaken

Government agencies

The Treasury, Te Puni Kokiri, Ministry for Economic Development, Department of the Prime Minister and Cabinet, Department of Conservation, Ministry for the Environment, Ministry of Agriculture and Forestry, Ministry of Justice, and Land Information New Zealand have been consulted. Departments will be further consulted as legislation and any associated regulations are drafted.

Public and sectoral consultation

The general principles underlying the preferred mechanism have been discussed with landowners and research providers working in this area.

Business compliance cost statement

Sources of compliance costs

Compliance costs may arise in the following areas:

- legal fees and costs of developing agreements and registering these against land titles; and
- development and implementation of forest management plans; and
- periodic forest measurement and verification.

Parties likely to be affected

It is likely that the majority of participants in the mechanism will be landowners of hill country farming operations. There are some 6 800 such operations in New Zealand.

Estimated compliance costs of the proposal

Estimates of compliance costs are—

- legal and registering fees and any costs incurred in developing agreements are expected to be in the order of a few hundred to a few thousand dollars depending on the extent of independent legal advice that landowners wish to seek;
- forest management plans, which may be able to be developed by landowners themselves with little or no financial cost. Some modest charges may be imposed to recover the costs of officials reviewing and approving management plans:

- forest measurement and verification operations are expected to be conducted at the start and end of the commitment period (2008 to 2012). Typical pre-harvest forest mensuration operations cost around \$25 per hectare. Assuming—
 - similar levels of measurement are required; and
 - the cost of measuring carbon is twice that of measuring timber; and
 - 20% of the land area is independently verified (ie, remeasured),—

then average costs of around \$25 per hectare per year of the first commitment period would be incurred. This cost would halve for further commitment periods as in future the measurements taken at the end of the last commitment period would provide the opening carbon balance for the new commitment period.

Longer term implications of the compliance costs

Forest measurement and verification costs are expected to be ongoing but periodic. The frequency of measurement and verification may reduce over time as the forest reaches a steady state of carbon. Other compliance costs are expected to be one-off.

Level of confidence of compliance cost estimates

At present it is only possible to provide indicative estimates of compliance costs. The actual level of compliance costs will be governed by the need to meet standards for measurement and reporting set internationally.

Key compliance cost issues identified in consultation

Landowners consulted principally noted compliance costs arising from forest measurement and verification and the ongoing nature of these costs. While these activities are an essential component of the mechanism, the design of the mechanism has sought to minimise these costs by requiring measurements only at the start and end of a commitment period.

Overlapping compliance requirements

There are no overlapping compliance requirements.

Steps taken to minimise compliance costs

It is expected that forest measurement and verification will be required only once at the start and end of each commitment period. In future it may be possible to reduce these costs still further by extending the period between measurements, particularly as the forest reaches maturity.

Hon Pete Hodgson

Climate Change Response Amendment Bill

Government Bill

Contents

1	Title	18	Priority of registration
2	Commencement	19	New section 25 substituted
	Part 1	25	Correction of unit register
	Amendments to principal Act	20	Unit register must be open for search
3	Purpose	21	Information accessible by search
4	Interpretation	22	New sections 28 and 29 substituted
5	Minister of Finance may give directions to Registrar regarding accounts and units	28	Search of unit register
6	New section 8A inserted	29	Printed search result receivable as evidence
	8A Minister of Finance must publish directions	23	New sections 30A to 30D and heading inserted
7	Minister of Finance may obtain information from inventory agency and Registrar	30A	Crown or Registrar not liable in relation to searches
8	Purpose of Registry		<i>Expiry of long-term certified emission reduction units and temporary certified emission reduction units</i>
9	New section 13 substituted	30B	Expiry of long-term certified emission reduction units
	13 Registrar may refuse access to, or suspend operation of, Registry	30C	Replacement of certain long-term certified emission reduction units
10	Registrar must give effect to directions	30D	Expiry of temporary certified emission reduction units
11	New section 16 substituted	24	Primary functions of inventory agency
	16 Carry-over of units	25	Inventory agency under direction of Minister responsible for inventory agency
12	Form and content of unit register	26	New section 35 substituted
13	New sections 18A to 18E inserted	35	Publication
	18A Opening holding accounts	27	New section 48A inserted
	18B Closing holding accounts	48A	Providing false or misleading information to Registrar
	18C Transfer of units	28	Regulations
	18D Succession	29	Incorporation by reference
	18E Trusts, representatives, and assignees of bankrupts		
14	Transactions must be registered		
15	Registration procedure		
16	New sections 21A and 21B inserted		
	21A Electronic registration		
	21B Defective applications		
17	Receiving units from overseas registries		

	Part 2		
	Amendments to other Acts		Subpart 2—Cost recovery
30	New Part 3B inserted in Forests Act 1949		67ZF Principles of cost recovery
	Part 3B		67ZG Methods of cost recovery
	Mechanism allowing landowners to access value created by Kyoto Protocol of sequestering carbon on land through establishment of forest sink covenants		67ZH Cost recovery to relate generally to financial year
	67W Purpose of Part		67ZI Minister may review levels and methods of cost recovery
	67X Interpretation of this Part		67ZJ Fees and charges to be prescribed by regulations
	Subpart 1—Forest sink covenants		67ZK Levies
	67Y Regulation-making powers for forest sink covenants		67ZL Contents of levy order
	67Z Content of forest sink covenants		67ZM Trust accounts required to be kept by persons collecting levies
	67ZA Landowner must obtain written consent of interested persons to enter into, vary, or cancel forest sink covenants		67ZN Fees, levies, and charges to constitute debt due to Secretary
	67ZB Nothing in Part makes Crown liable		67ZO Penalties for failure to pay fee, levy, or charge
	67ZC Section 126G of Property Law Act 1952 does not apply to forest sink covenants	31	67ZP Obligation to pay fee, levy, charge, or penalty not suspended by dispute
	67ZD Registrar-General of Land to register forest sink covenants		67ZQ Levy orders to be confirmed
	67ZE Minister must give notice to Registrar-General of Land if forest sink covenants are varied, cancelled, or terminated	32	Amendments to Forestry Rights Registration Act 1983
			Consequential amendment to Privacy Act 1993

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Climate Change Response Amendment Act **2005**.
- (2) In this Act, the Climate Change Response Act 2002¹ is called “the principal Act”.
¹ 2002 No 40

2 Commencement

- (1) **Section 5** comes into force on the date that section 7 of the principal Act comes into force.
- (2) **Sections 12, 15, 19, and 21** come into force on the date that section 10 of the principal Act comes into force.

- (3) Each provision of **sections 4, 6 to 11, 13, 14, 16 to 18, 20, 26, and 27** comes into force on the date that the provision of the principal Act that it amends comes into force.
- (4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1 Amendments to principal Act

3 Purpose

Section 3(1)(a) of the principal Act is amended by inserting, after the words “New Zealand in the”, the word “first”. 10

4 Interpretation

- (1) Section 4(1) of the principal Act is amended by—
- (a) inserting in the definition of **carry over**, after the words “unit from the”, the word “relevant”; and
 - (b) omitting from the definition of **clean development mechanism project** the words “that results in certified emission reductions”; and 15
 - (c) omitting from the definition of **holding account** the words “on behalf of the Crown”; and
 - (d) omitting from the definition of **independent transaction log** the words “, transfer, and acquisition”, and substituting the words “and transfer”. 20
- (2) Section 4(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:
- “**designated operational entity** means an operational entity designated under Article 12(5) of the Protocol 25
- “**executive board** means the board established under Article 12(4) of the Protocol
- “**expire or expiry**, in relation to a long-term certified emission reduction unit or a temporary certified emission reduction unit, means a unit that is no longer capable of being— 30
- “(a) transferred to any account other than the general cancellation account; or
 - “(b) retired
- “**long-term certified emission reduction replacement account** means an account in the Registry— 35
- “(a) for the purpose of—

- “(i) replacing long-term certified emission reduction units in that account or the retirement account, before they are due to expire, with assigned amount units, certified emission reduction units, emission reduction units, or removal units; or 5
- “(ii) replacing long-term certified emission reduction units, no more than 30 days before they are due to expire as a result of a reversal of sinks or non-receipt of a certification report, with—
- “(A) assigned amount units, certified emission reduction units, emission reduction units, or removal units; or 10
- “(B) long-term certified emission reduction units from the same clean development mechanism project; and 15
- “(b) that is limited to the relevant commitment period
- “**long-term certified emission reduction unit** means a unit derived from a clean development mechanism project, issued by the CDM registry, and designated as a long-term certified emission reduction unit (or ICER) by the CDM registry 20
- “**previous commitment period** means a commitment period, including (but not limited to) the first commitment period, that—
- “(a) is specified or determined under the Protocol; and
- “(b) begins and ends before a subsequent commitment period 25
- “**relevant commitment period** means a commitment period that is specified or determined under the Protocol, and—
- “(a) in which a particular activity or transaction occurs; or
- “(b) to which an account or unit is associated 30
- “**subsequent commitment period** means a commitment period that—
- “(a) is specified or determined under the Protocol; and
- “(b) begins and ends after a previous commitment period
- “**temporary certified emission reduction replacement account** means an account in the Registry— 35
- “(a) for the purpose of replacing temporary certified emission reduction units, before they are due to expire, with assigned amount units, certified emission reduction

- units, emission reduction units, removal units, or temporary certified emission reduction units that are due to expire in a subsequent commitment period; and
- “(b) that is limited to the relevant commitment period
- “**temporary certified emission reduction unit** means a unit derived from a clean development mechanism project issued by the CDM registry, and designated as a temporary certified emission reduction unit (or tCER) by the CDM registry”.
- (3) Section 4(1) of the principal Act is amended by repealing the definition of **commitment period**, and substituting, in its appropriate alphabetical order, the following definition:
- “**first commitment period** means the commitment period from 1 January 2008 to 31 December 2012 (inclusive)”.
- (4) Section 4(1) of the principal Act is amended by repealing the definition of **units**, and substituting the following definition:
- “**units** means all of the unit types specified in, or in accordance with, the Protocol (namely, assigned amount units, certified emission reduction units, emission reduction units, long-term certified emission reduction units, removal units, and temporary certified emission reduction units).”
- 5 Minister of Finance may give directions to Registrar regarding accounts and units**
- (1) Section 7(a) of the principal Act is amended by adding the following subparagraphs:
- “(v) a long-term certified emission reduction replacement account:
- “(vi) a temporary certified emission reduction replacement account:”.
- (2) Section 7 of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
- “(b) issue assigned amount units in the Registry:”.
- (3) Section 7 of the principal Act is amended by repealing paragraph (d), and substituting the following paragraphs:
- “(d) transfer units (other than long-term certified emission reduction units or temporary certified emission reduction units) from holding accounts to the general cancellation account, the long-term certified emission reduction replacement account, the non-compliance

- cancellation account, the retirement account, the temporary certified emission reduction replacement account, or the sink cancellation account:
- “(da) transfer long-term certified emission reduction units or temporary certified emission reduction units from holding accounts to the general cancellation account, the long-term certified emission reduction replacement account, the temporary certified emission reduction replacement account, or the retirement account:”.
- (4) Section 7 of the principal Act is amended by repealing paragraph (e), and substituting the following paragraph: 5
- “(e) carry over assigned amount units, certified emission reduction units, and emission reduction units held in holding accounts.”
- 6 New section 8A inserted** 15
- The principal Act is amended by inserting, after section 8, the following section:
- “8A Minister of Finance must publish directions**
- As soon as practicable after giving a direction under section 6 or section 7, the Minister of Finance must publish a copy of the direction on the Registry’s Internet site.” 20
- 7 Minister of Finance may obtain information from inventory agency and Registrar**
- (1) Section 9 of the principal Act is amended by inserting, after the words “holding of units”, the words “and discharging New Zealand’s obligations under section 32(1)(b)”. 25
- (2) Section 9(b)(ii) of the principal Act is amended by—
- (a) omitting the word “acquired”, and substituting the word “issued”; and
- (b) inserting, after the word “retired,”, the word “replaced,”. 30
- 8 Purpose of Registry**
- (1) Section 10(a) of the principal Act is amended by inserting, after the words “for the”, the word “first”.
- (2) Section 10(a)(i) of the principal Act is amended by omitting the word “acquisition,”. 35

- (3) Section 10(a) of the principal Act is amended by adding, after subparagraph (ii), the following subparagraph:
“(iii) the replacement of expired long-term certified emission reduction units and expired temporary certified emission reduction units; and”.
- 9 New section 13 substituted**
The principal Act is amended by repealing section 13, and substituting the following section:
- “13 Registrar may refuse access to, or suspend operation of, Registry**
The Registrar may refuse access to the Registry, or otherwise suspend the operation of the Registry (in whole or in part), if the Registrar considers that—
“(a) providing access, or any other service or services relating to the Registry, is impracticable; or
“(b) the integrity of the Registry is, or has been, or may be, compromised.”
- 10 Registrar must give effect to directions**
Section 14(2) of the principal Act is amended by omitting the words “in the *Gazette*”, and substituting the words “on the Registry’s Internet site”.
- 11 New section 16 substituted**
The principal Act is amended by repealing section 16, and substituting the following section:
- “16 Carry-over of units**
“(1) An account holder may, subject to regulations made under this Act, apply to the Registrar to carry over assigned amount units, certified emission reduction units, or emission reduction units held in that account holder’s holding account.
“(2) Long-term certified emission reduction units, removal units, and temporary certified emission reduction units may not be carried over.”
- 12 Form and content of unit register**
(1) Section 18(1)(b) of the principal Act is amended by omitting the word “Internet”, and substituting the words “Registry’s Internet site”.

- (2) Section 18(2)(b)(i) of the principal Act is amended by omitting the word “acquisition”, and substituting the word “issue”.
- (3) Section 18(2)(b) of the principal Act is amended by inserting, after subparagraph (ii), the following subparagraph: 5
“(iii) the replacement of long-term certified emission reduction units and temporary certified emission reduction units; and”.
- (4) Section 18 of the principal Act is amended by adding the following subsection: 10
“(3) A unit recorded in the unit register is—
“(a) indivisible; and
“(b) transferable, subject to any regulations made under this Act,—
“(i) within the unit register; or 15
“(ii) between the unit register and overseas registries.”
- 13 New sections 18A to 18E inserted**
The principal Act is amended by inserting, after section 18, the following sections:
- “18A Opening holding accounts” 20**
- “(1) Any person may submit an application to the Registrar to open 1 or more holding accounts in the unit register by using the form and paying the fees (if any) prescribed in regulations made under this Act.
- “(2) The Registrar may approve the opening of a holding account 25
subject to any regulations made under this Act.
- “(3) If the Registrar approves an application to open a holding account, the Registrar must, as soon as practicable,—
“(a) open a holding account in the applicant’s name; and 30
“(b) provide the applicant with a representative identifier.
- “(4) If the application is incomplete, the Registrar must, as soon as practicable, ask the applicant to provide the information or fee (if any) that is required to make the application complete.
- “(5) The Registrar may refuse to provide a holding account to any applicant who provides an incomplete application. 35
- “(6) A holding account is subject to any regulations made under this Act.

“18B Closing holding accounts

- “(1) An account holder may submit a request to the Registrar to close 1 or more of that account holder’s holding accounts in the unit register by using the form and paying the fee (if any) prescribed in regulations made under this Act. 5
- “(2) Any units that remain in a holding account when it is closed—
“(a) are forfeited to the Crown; and
“(b) must be transferred, as soon as practicable, to a Crown holding account.
- “(3) If a request is incomplete, the Registrar must, as soon as practicable, ask the account holder to provide the information or fee (if any) that is required to make the request complete. 10
- “(4) The Registrar may not close a holding account if the account holder provides an incomplete request.
- “(5) The Minister responsible for the Registry may, in accordance with regulations made under this Act, direct the Registrar to close an account holder’s holding account if the Minister responsible for the Registry has given the account holder reasonable notice. 15
- “(6) For the purposes of this section, **reasonable notice** means sufficient opportunity in the circumstances to transfer the units to another account before the holding account that is the subject of the closure request is closed. 20

“18C Transfer of units

- “(1) An account holder may, by using the form and paying the fees (if any) prescribed in regulations made under this Act, apply to the Registrar to transfer units from that account holder’s holding account to another account in— 25
“(a) the unit register; or
“(b) an overseas registry. 30
- “(2) The Registrar must transfer the specified units as requested, subject to any regulations made under this Act.
- “(3) Despite **subsection (2)**, if the Registrar is asked to transfer units held in an account holder’s holding account to the general cancellation account, the Registrar must— 35
“(a) seek a direction from the Minister of Finance as to whether the units may be transferred to the general cancellation account; and

- “(b) transfer the units to the general cancellation account if the Minister of Finance so directs.
- “(4) An account holder who receives units is under no obligation to initiate any registration process.
- “18D Succession** 5
- “(1) This section applies if an account holder—
- “(a) is a natural person and dies; or
- “(b) is not a natural person and is wound up, liquidated, dissolved, or otherwise ceases to exist.
- “(2) If this section applies, the person listed on the holding account as the account holder’s representative may operate the holding account until— 10
- “(a) a successor is determined; and
- “(b) the Registrar is informed of that determination in writing. 15
- “(3) If a successor is determined, and the Registrar is informed of that determination in writing, the Registrar must register the successor as the account holder.
- “18E Trusts, representatives, and assignees of bankrupts**
- “(1) Notice of a trust, whether expressed, implied, or constructive, may not be entered on the unit register. 20
- “(2) Despite anything in **section 18D**, the existence of a representative that may operate the holding account of an account holder who has died, or that has been wound up, liquidated, or dissolved, or otherwise has ceased to exist, does not constitute notice of a trust. 25
- “(3) The assignee of the property of a bankrupt may be entered on the unit register as the assignee of the bankrupt’s units.”
- 14 Transactions must be registered**
- (1) Section 20(1) of the principal Act is amended by omitting the words “transfer, cancel, or retire”, and substituting the words “issue, transfer, cancel, retire, or replace”. 30
- (2) Section 20 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:
- “(2) However, the Registrar may not register a transaction on the unit register if— 35

- “(a) the Registrar receives a notification from the independent transaction log that there is a discrepancy with the transaction; or
- “(b) the transaction is not submitted in the prescribed form; or 5
- “(c) the prescribed fees (if any) have not been paid to the Registrar (unless arrangements for payment have been made in accordance with regulations made under this Act).”
- 15 Registration procedure 10**
- (1) Section 21 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:
- “(1) On receipt of a direction given by the Minister of Finance, or an application for the registration of a transaction by an account holder that is completed to the satisfaction of the Registrar and in accordance with any regulations made under this Act, the Registrar must— 15
- “(a) create a unique transaction number; and
- “(b) send a record of the proposed transaction to the independent transaction log. 20
- “(2) On receipt of notification from the independent transaction log that there are no discrepancies in the proposed transaction, the Registrar must, as soon as practicable,— 25
- “(a) record in the unit register the particulars set out in the direction or the application and the particulars of the transaction; and
- “(b) send notification that the transaction has been recorded in the unit register to the independent transaction log; and 30
- “(c) send electronic verification to the Minister of Finance or the account holder who has applied to register the transaction.”
- (2) Section 21(3)(c)(ii) of the principal Act is repealed.
- (3) Section 21(3)(c) of the principal Act is amended by repealing subparagraph (iii), and substituting the following subparagraph: 35
- “(iii) the Minister of Finance or the account holder who has applied to enter the transaction on the unit register.” 40

16 New sections 21A and 21B inserted

The principal Act is amended by inserting, after section 21, the following sections:

“21A Electronic registration

A direction by the Minister of Finance or an application by an account holder to register a transaction must be— 5

“(a) made electronically in the prescribed form via the Registry’s Internet site, and contain the particulars specified in the form; and

“(b) accompanied by the fee (if any) prescribed in regulations made under this Act; and 10

“(c) made in accordance with regulations made under this Act.

“21B Defective applications

“(1) If an application is defective, the Registrar may— 15

“(a) correct the defect; or

“(b) direct, in writing by electronic notification, the applicant to correct the defect within a specified period of time.

“(2) If a direction to correct a defect is not complied with within the specified period of time, the Registrar may refuse to— 20

“(a) proceed with the registration; or

“(b) register the transaction.

“(3) Any fees paid to the Registrar in relation to an uncorrected defective application are forfeited.” 25

17 Receiving units from overseas registries

(1) Section 23(1)(b) of the principal Act is repealed.

(2) Section 23(2)(c) of the principal Act is amended by omitting the words “and the overseas registry”.

(3) Section 23 of the principal Act is amended by adding the following subsection: 30

“(3) A transfer of units from an overseas registry is subject to any regulations made under this Act.”

18 Priority of registration

(1) Section 24(1) of the principal Act is amended by omitting the word “Applications”, and substituting the words “A direction or an application”. 35

- (2) Section 24(2) of the principal Act is amended by omitting the word “An”, and substituting the words “A direction or an”.

19 New section 25 substituted

The principal Act is amended by repealing section 25, and substituting the following section:

5

“25 Correction of unit register

- “(1) An account holder who has registered a transaction or the Minister of Finance may submit a request to the Registrar to correct any inaccuracy recorded in the unit register in relation to that transaction.

10

- “(2) The request—

“(a) may be made at any time; and

“(b) must specify—

“(i) the inaccuracy; and

“(ii) the correction required; and

15

“(c) must be in the form, and accompanied by the fees (if any), prescribed in regulations made under this Act.

- “(3) If the Registrar is satisfied that the unit register is inaccurate in any respect, the Registrar must—

“(a) correct the unit register accordingly; and

20

“(b) record on the unit register—

“(i) the nature of the correction; and

“(ii) the time that the correction was made; and

“(c) give notification of the correction, as soon as practicable, to—

25

“(i) any person whom the Registrar considers to be affected by the correction; and

“(ii) the independent transaction log; and

“(iii) any other persons, by posting it on the Registry’s Internet site.”

30

20 Unit register must be open for search

Section 26 of the principal Act is amended by omitting the word “Internet”, and substituting the words “Registry’s Internet site”.

21 Information accessible by search

35

- (1) Section 27 of the principal Act is amended by omitting the word “Internet”, and substituting the words “Registry’s Internet site”.

- (2) Section 27(a) of the principal Act is amended by repealing subparagraph (iii), and substituting the following subparagraph:
- “(iii) the relevant commitment period of any—
- “(A) general cancellation account or retirement account; and 5
- “(B) long-term certified emission reduction replacement account or temporary certified emission reduction replacement account.”
- (3) Section 27(b) of the principal Act is amended by omitting the words “, by serial number,”. 10
- (4) Section 27(b)(iv) of the principal Act is amended by omitting the word “acquired”, and substituting the word “transferred”.
- (5) Section 27(b) of the principal Act is amended by inserting, after subparagraph (xi), the following subparagraphs: 15
- “(xia) the total quantity of long-term certified emission reduction units in each account; and
- “(xib) the total quantity of temporary certified emission reduction units in each account; and
- “(xic) the expiry date of each long-term certified emission reduction unit and each temporary certified emission reduction unit; and”. 20
- (6) Section 27(b)(xii) of the principal Act is repealed.
- 22 New sections 28 and 29 substituted**
- The principal Act is amended by repealing sections 28 and 29, and substituting the following sections: 25
- “28 Search of unit register**
- A person may, by using the form and paying the fees (if any) prescribed by regulations made under this Act, search the unit register, and obtain a printed search result, in accordance with this Act and any regulations made under this Act. 30
- “29 Printed search result receivable as evidence**
- A printed search result, or a copy of a printed search result, that purports to be issued by the Registrar is receivable as evidence and is, in the absence of evidence to the contrary, proof of any matter recorded in the unit register, including (but not limited to)— 35
- “(a) the ownership of units; and

- “(b) the date and time of the registration of a transaction; and
“(c) information that the Registry holds.”

23 New sections 30A to 30D and heading inserted

The principal Act is amended by inserting, after section 30, the following sections and heading:

“30A Crown or Registrar not liable in relation to searches

No action may be brought against the Crown or the Registrar for any loss or damage resulting from—

- “(a) an inaccuracy in a search of the unit register; or
“(b) an inaccurate entry in the unit register.

“Expiry of long-term certified emission reduction units and temporary certified emission reduction units

“30B Expiry of long-term certified emission reduction units

“(1) A long-term certified emission reduction unit expires at the end of the last crediting period for the clean development mechanism project to which it relates.

“(2) A person who holds a long-term certified emission reduction unit in a retirement account or a long-term certified emission reduction replacement account must replace that unit before it expires by transferring 1 of the following units to the long-term certified emission reduction replacement account:

- “(a) an assigned amount unit; or
“(b) a certified emission reduction unit; or
“(c) an emission reduction unit; or
“(d) a removal unit.

“(3) Thirty days before a long-term certified emission reduction unit in a retirement account or a long-term certified emission reduction replacement account expires, the Registrar must notify in writing the person who holds that unit that it is due to expire and must be replaced.

“(4) If a long-term certified emission reduction unit is not held in a retirement account or a long-term certified emission reduction replacement account, the Registrar must transfer that unit to the general cancellation account when that unit expires.

“(5) If **subsection (4)** applies, then **section 18C(3)** does not apply.

- “30C Replacement of certain long-term certified emission reduction units**
- “(1) A person who holds a long-term certified emission reduction unit must replace that unit in accordance with this section if the designated operating entity of the relevant clean development mechanism project— 5
- “(a) provides a certification report that indicates a reversal of net anthropogenic greenhouse gas removals by sinks since the previous certification; or
- “(b) does not provide a certification report. 10
- “(2) If **subsection (1)** applies,—
- “(a) each identified long-term certified emission reduction unit, as notified by the executive board, must be replaced by 1 of the following units:
- “(i) assigned amount units; or 15
- “(ii) certified emission reduction units; or
- “(iii) emission reduction units; or
- “(iv) removal units; or
- “(v) long-term certified emission reduction units from the same clean development mechanism project; 20
- and
- “(b) the Registrar must notify in writing the person who holds the affected long-term certified emission reduction unit.
- “(3) A person notified under **subsection (2)(b)** must replace the affected long-term certified emission reduction unit within 30 days of receiving the notice. 25
- “(4) Section 152 of the Property Law Act 1952 applies, with all necessary modifications, to any notice required under **subsection (2)(b)**. 30
- “30D Expiry of temporary certified emission reduction units**
- “(1) A temporary certified emission reduction unit expires at the end of the subsequent commitment period that immediately follows the relevant commitment period.
- “(2) A person who holds a temporary certified emission reduction unit in a retirement account or a temporary certified emission reduction replacement account must replace that unit before it expires by transferring 1 of the following units to the temporary certified emission reduction replacement account: 35
- “(a) an assigned amount unit; or 40

- “(b) a certified emission reduction unit; or
“(c) an emission reduction unit; or
“(d) a removal unit; or
“(e) a temporary certified emission reduction unit that is due to expire in a subsequent commitment period. 5
- “(3) Thirty days before a temporary certified emission reduction unit in a retirement account or a temporary certified emission reduction replacement account expires, the Registrar must notify in writing the person who holds that unit that it is due to expire and must be replaced. 10
- “(4) If a temporary certified emission reduction unit is not held in a retirement account or a temporary certified emission reduction replacement account, the Registrar must transfer that unit to the general cancellation account when that unit expires.
- “(5) If **subsection (4)** applies, then **section 18C(3)** does not apply.” 15
- 24 Primary functions of inventory agency**
Section 32(1)(b)(i) of the principal Act is amended by adding the words “, including (but not limited to) the quantities of long-term certified emission reduction units and temporary certified emission reduction units that have expired or have been replaced, retired, or cancelled”. 20
- 25 Inventory agency under direction of Minister responsible for inventory agency**
Section 33(2) of the principal Act is amended by omitting the words “publish a copy of the direction in the *Gazette*”, and substituting the words “make a copy of the direction accessible via the inventory agency’s Internet site”. 25
- 26 New section 35 substituted**
The principal Act is amended by repealing section 35, and substituting the following section: 30
- “35 Publication**
The inventory agency must publish New Zealand’s annual inventory report and its national communication (or periodic report) in electronic form by placing the report on a publicly accessible portion of the inventory agency’s Internet site.” 35

27 New section 48A inserted

The principal Act is amended by inserting, after section 48, the following section:

“48A Providing false or misleading information to Registrar

“(1) Every person who knowingly provides false or misleading information to the Registrar commits an offence, and is liable on conviction to a fine not exceeding,—

“(a) in the case of an individual, \$50,000:

“(b) in the case of a body corporate, \$200,000.

“(2) Every person who recklessly provides false or misleading information to the Registrar commits an offence, and is liable on conviction to a fine not exceeding \$2,000.”

28 Regulations

(1) Section 50(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraphs: 15

“(c) prescribing matters, including (but not limited to) limitations, restrictions, conditions, exemptions, requirements, or prohibitions, in respect of—

“(i) the transfer of units, including (but not limited to)— 20

“(A) the transfer of units from an account holder’s holding account to another account in an overseas registry:

“(B) the transfer of units within the unit register:

“(C) the transfer of units from an overseas registry: 25

“(D) prohibitions on the transfer of units for the purposes of holding those units in an account in the Registry:

“(ii) the opening or closing of holding accounts: 30

“(ca) prescribing matters in respect of the holding, cancellation, and carry-over of units, including (but not limited to) limitations, restrictions, conditions, exemptions, requirements, procedures, or thresholds:”.

(2) Section 50(1)(d) of the principal Act is amended by adding the following subparagraph: 35

“(vii) the form and content of the unit register:”.

- (3) Section 50(1)(e) of the principal Act is amended by omitting the expression “section 28(1)”, and substituting the words “this Act”.

29 Incorporation by reference

Section 51(3) of the principal Act is amended by omitting the words “at the Registry’s head office and via the Internet”, and substituting the words “via the Registry’s Internet site”. 5

Part 2

Amendments to other Acts

30 New Part 3B inserted in Forests Act 1949 10

The Forests Act 1949 is amended by inserting, after Part 3A, the following Part:

“Part 3B

“Mechanism allowing landowners to access value created by Kyoto Protocol of sequestering carbon on land through establishment of forest sink covenants 15

“67W Purpose of Part

The purpose of this Part is to provide a mechanism to allow landowners to access the value of sequestering carbon on land through the establishment of forest sink covenants. 20

“67X Interpretation of this Part

In this Part, unless the context otherwise requires,—

“**forest sink** means a forest grown in a way that qualifies for removal units under the Protocol

“**forest sink covenant** means any covenant established under regulations made under **section 67Y**, or any variation of that covenant, for the purpose of— 25

“(a) establishing and maintaining a forest sink; and

“(b) controlling the harvesting of timber for sale

“**Protocol** has the same meaning as in section 4(1) of the Climate Change Response Act 2002 30

“**removal unit** has the same meaning as in section 4(1) of the Climate Change Response Act 2002

“**units** has the same meaning as in section 4(1) of the Climate Change Response Act 2002. 35

“Subpart 1—Forest sink covenants

“67Y Regulation-making powers for forest sink covenants

- “(1) The Governor-General may make regulations to—
- “(a) establish a framework to facilitate the establishment of forest sink covenants: 5
 - “(b) establish penalties for breaches of a forest sink covenant:
 - “(c) prescribe any forms required to facilitate the framework specified in **paragraph (a)**:
 - “(d) prescribe procedures and requirements relating to the selection and performance of persons who carry out functions in relation to a forest sink covenant: 10
 - “(e) prescribe records, returns, or information in relation to a forest sink covenant that a person or class of persons must keep or provide to the Minister: 15
 - “(f) prescribe requirements for a landowner to provide a guarantor or insurer, or any other risk management arrangement that the Minister considers appropriate, to meet any obligations of the landowner under the Act or the forest sink covenant in the event of the landowner’s default. 20
- “(2) Without limiting **subsection (1)(a)**, the framework may permit the Minister, on behalf of the Crown, to negotiate, and enter into, a forest sink covenant.
- “(3) However, nothing in this Part requires the Minister to negotiate, or enter into, any forest sink covenant. 25

“67Z Content of forest sink covenants

Without limiting the content of forest sink covenants, a forest sink covenant may—

- “(a) specify any or all of the following: 30
 - “(i) the obligations of any landowner for monitoring and administrative costs:
 - “(ii) the rights of any landowner with respect to receiving units based on carbon sequestration:
 - “(iii) any exceptions to the covenant to control the harvesting of timber for sale, including (but not limited to) the use of plants for traditional Maori purposes: 35
 - “(iv) access to the land by the Secretary, or any of its contractors or agents, to— 40

-
- “(A) verify carbon inventories; and
“(B) monitor compliance with the forest sink covenant:
- “(v) the obligations of any landowner to meet any liabilities to the Crown arising if there is a loss of carbon from the landowner’s forest sink: 5
- “(vi) a requirement for the landowner to provide a guarantor or insurer, or any other risk management arrangement that the Minister considers appropriate, to meet any obligations of the landowner under the Act or the forest sink covenant in the event of the landowner’s default: 10
- “(vii) a requirement to control the harvest of timber for sale:
- “(viii) a requirement to include a forest sink management plan: 15
- “(b) be expressed to—
- “(i) have effect in perpetuity; and
- “(ii) terminate if certain circumstances arise or certain conditions are met; and 20
- “(iii) provide obligations if certain circumstances arise or certain conditions are met; and
- “(iv) come into effect when registered; and
- “(v) expire unless registered within 180 days of being agreed: 25
- “(c) be varied or cancelled by agreement between the landowner and the Minister if that agreement is registered under **section 67ZD**.
- “67ZA Landowner must obtain written consent of interested persons to enter into, vary, or cancel forest sink covenants 30**
- A landowner intending to enter into, vary, or cancel a forest sink covenant must obtain the written consent of each person with an interest in the affected land to enter into, vary, or cancel that forest sink covenant. 35
- “67ZB Nothing in Part makes Crown liable**
- Provided the Crown has acted in good faith and with reasonable care, nothing in this Part makes the Crown liable to any person for compensation or damages in respect of any matter

arising from a forest sink covenant unless the Crown agrees otherwise in that forest sink covenant.

“67ZC Section 126G of Property Law Act 1952 does not apply to forest sink covenants

Nothing in section 126G of the Property Law Act 1952 applies to any forest sink covenant entered into in accordance with this Act. 5

“67ZD Registrar-General of Land to register forest sink covenants

“(1) A landowner who has entered into a forest sink covenant must, within 180 days of that covenant being agreed, submit that covenant to the Registrar-General of Land for registration under the Land Transfer Act 1952. 10

“(2) If, in respect of a forest sink covenant, the Registrar-General of Land receives a submission under **subsection (1)** or a notice from the Minister under **section 67ZE**, the Registrar-General of Land must enter in the computer register for the district in which the affected land is located notification of— 15

“(a) that forest sink covenant; or

“(b) the variation, cancellation, or termination of that forest sink covenant. 20

“(3) For the purposes of the Land Transfer Act 1952, a forest sink covenant, or an agreement to vary a forest sink covenant, is an instrument that—

“(a) may be registered; and 25

“(b) if registered, creates an interest in land that runs with that land.

“(4) If a forest sink covenant is registered under the Land Transfer Act 1952, and any provision of that covenant has terminated, or has been varied or cancelled by an agreement,— 30

“(a) the Registrar-General of Land must, if satisfied that the provision has terminated, or has been varied or cancelled, make an entry in the computer register noting that the provision has terminated, or has been varied or cancelled; and 35

“(b) the forest sink covenant takes effect as varied or ceases to have effect (as the case may be).

“(5) The landowner must provide the Registrar-General of Land with—

- “(a) a diagram or an aerial photo that shows the boundaries of the land to which the forest sink covenant applies; and
“(b) if required by the Registrar-General of Land, a deposit plan. 5
- “(6) A landowner subject to a registered forest sink covenant may, at any time, deposit a plan in accordance with section 167(5) of the Land Transfer Act 1952 and any relevant regulations that,—
- “(a) with the agreement of the Minister, redefines the boundaries of the land subject to the covenant; and 10
“(b) supercedes any previously submitted diagram or aerial photograph, or any part of any previously submitted diagram or aerial photograph.
- “(7) If a plan is deposited under section 167 of the Land Transfer Act 1952 with respect to a forest sink covenant, the Registrar-General of Land must, if necessary,— 15
- “(a) amend the description of the parcels included in the covenant; and
“(b) endorse, on any relevant computer register, a memorial that indicates that the boundaries of the land subject to the covenant, as defined, have been surveyed. 20
- “(8) A forest sink covenant may not be treated as a subdivision of land for the purposes of the Resource Management Act 1991.
- “67ZE **Minister must give notice to Registrar-General of Land if forest sink covenants are varied, cancelled, or terminated** 25
- If a forest sink covenant is varied, cancelled, or terminated, the Minister must give notice of the variation, cancellation, or termination in the prescribed form to the Registrar-General of Land. 30

“Subpart 2—Cost recovery

“67ZF **Principles of cost recovery**

- “(1) The Minister must take all reasonable steps to ensure that the direct and indirect costs of administering this Part that are not provided for by money appropriated by Parliament for the purpose are recovered under this subpart, whether by way of fees, levies, or otherwise. 35

- “(2) In determining the most appropriate method of cost recovery under **section 67ZG**, the Minister must have regard, as far as is reasonably practicable, to the following criteria:
- “(a) equity, in that funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service: 5
 - “(b) efficiency, in that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost: 10
 - “(c) justifiability, in that costs should be collected only to meet the actual and reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service: 15
 - “(d) transparency, in that costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided. 20
- “(3) Costs should not be recovered under this subpart unless there has been appropriate consultation with affected persons or representatives of persons substantially affected.
- “(4) Nothing in **subsection (3)** requires consultation in relation to specific fees or charges, or the specific levels of fees or charges, so long as the fees or charges set are reasonably within the purview of any general consultation; and a failure to comply with **subsection (3)** does not affect the validity of any regulations made for the purposes of this subpart. 25
- “(5) Nothing in this section requires a strict apportionment of the costs to be recovered for a particular function or service based on usage; and, without limiting the way in which fees or charges may be set, a fee or charge may be set at a level or in a way that— 35
- “(a) is determined by calculations that involve an averaging of costs or potential costs:
 - “(b) takes into account costs or potential costs of services that are not directly to be provided to the person who pays the fee or charge but which are an indirect or potential cost arising from the delivery of the service in 40

question to a class of persons or all persons who use the service.

Compare: 2003 No 114 s 84

“67ZG Methods of cost recovery

The methods by which costs may be recovered under this subpart are as follows: 5

- “(a) fixed fees or charges:
- “(b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:
- “(c) use of a formula or other method of calculation for fixing fees and charges: 10
- “(d) the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function:
- “(e) estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appropriate further payment or refund after provision of the service or function: 15
- “(f) levies: 20
- “(g) any combination of the above.

Compare: 2003 No 114 s 85

“67ZH Cost recovery to relate generally to financial year

- “(1) Except as provided in **subsection (2)**, any regulations under this subpart that set a fee, charge, or levy that applies in any financial year— 25
 - “(a) must have been made before the start of that financial year; but
 - “(b) except as the regulations may otherwise provide, apply in that year and all subsequent years until revoked or replaced. 30
- “(2) **Subsection (1)** does not prevent the alteration or setting during any financial year of a fee, charge, or levy payable in that year if either—
 - “(a) the fee, charge, or levy is reduced, removed, or restated without substantive alteration; or 35
 - “(b) in the case of an increase or a new fee, charge, or levy,—

- “(i) appropriate consultation has been carried out with persons or representatives of persons substantially affected by the alteration or setting; and
- “(ii) the Minister is satisfied that those persons, or their representatives, agree or do not substantially disagree with the alteration or setting. 5
- “(3) **Subsection (1)** does not prevent the amendment of any regulation setting a fee, charge, or levy if any substantive alteration effected by the amendment is for the purpose of correcting an error. 10
- “(4) Recovery may be made in any financial year of any shortfall in cost recovery for any of the preceding 4 financial years, and allowance may be made for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year). 15

Compare: 2003 No 114 s 86

“67ZI **Minister may review levels and methods of cost recovery**

- “(1) The Minister may, as and when appropriate, review the levels and methods of cost recovery in relation to forest sink covenants. 20
- “(2) A review may make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years, or make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year). 25
- “(3) To avoid doubt, all areas of cost recovery need not be reviewed at the same time, nor is there any time limit on the making of regulations to implement the results of a review. 30

Compare: 2003 No 114 s 87

“67ZJ **Fees and charges to be prescribed by regulations**

- “(1) The Governor-General may, by Order in Council and on the recommendation of the Minister, make regulations prescribing fees and charges for the purposes of this Part. 35
- “(2) The fees and charges may be prescribed using any 1 or more of the methods specified in **section 67ZG**, or any combination of those methods.

- “(3) Different fees and charges, or different rates or types of fee or charge, may be prescribed in respect of different forest sink covenants.
- “(4) Without limiting **subsection (3)**, the fees and charges prescribed may— 5
- “(a) differ depending on whether a special or urgent service is provided:
- “(b) include more than 1 level of fee or charge for the same service provided in different ways, or provided in, or in respect of, different places: 10
- “(c) differ for otherwise similar services provided in different ways:
- “(d) differ depending on the amount of service required or the components of the service required for the particular person. 15
- “(5) If regulations prescribe a formula for determining a fee or charge, the formula may specify the value attributed to any component of that formula.
- “(6) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of **sections 67ZF and 67ZH** have been met. 20

Compare: 2003 No 114 s 88

“**67ZK Levies**

- “(1) The Governor-General may, by Order in Council and on the recommendation of the Minister, impose a levy payable to the Secretary for the purposes of wholly or partially funding a service provided or function performed by the Ministry or the Secretary for the purposes of this Act. 25
- “(2) Every levy order is a regulation for the purposes of the Regulations (Disallowance) Act 1989. 30

Compare: 1993 No 95 s 137

“**67ZL Contents of levy order**

- “(1) Every levy order under **section 67ZK** must specify— 35
- “(a) the persons primarily responsible for paying the levy; and
- “(b) the basis on which the amount of levy is to be calculated or ascertained; and

- “(c) the persons (if any) to be exempt from paying the levy;
and
 - “(d) the persons responsible for collecting the levy from
those primarily responsible for paying it; and
 - “(e) the maximum rate of levy; and 5
 - “(f) how the actual rate of the levy is to be set; and
 - “(g) how the rates of the levy and variation of rates are to be
notified; and
 - “(h) whether or not the persons collecting the levy are enti-
tled to recover the cost of levy collection and the esti- 10
mated amount.
- “(2) The levy order may prescribe any of the following matters:
- “(a) the making of returns to the Minister for the purpose of
enabling or assisting the determination of amounts of
levy payable: 15
 - “(b) the circumstances in which, and conditions subject to
which, persons may be allowed extensions of time for
the payment of any levy:
 - “(c) the payment of additional or increased levy when
amounts of levy otherwise payable have been paid late,
paid in part, or not paid at all: 20
 - “(d) the holding of funds from which payments of levy are to
be made, on trust in separate accounts.

Compare: 1993 No 95 s 140

- “67ZM **Trust accounts required to be kept by persons
collecting levies** 25
- “(1) If a levy order made under **section 67ZK** requires the operation
of a trust account for any levy money by the person responsi-
ble for collecting the levy,—
- “(a) any amount held in such an account that is due to be 30
paid to the Secretary by the levy collector is to be
treated as levy money held on trust for the Secretary;
and
 - “(b) any amount so held on trust is not available for the
payment of a creditor (other than the Secretary) of the 35
levy collector, and is not liable to be attached or taken in
execution at the instance of that creditor; and
 - “(c) a person who ceases to be a person responsible for
collecting a levy must continue to maintain the trust

account until all the levy money payable to the Secretary in respect of the period during which the person was responsible for collecting the levy has been paid.

- “(2) Nothing in **subsection (1)(c)** affects any obligation or liability under this Act of any other person who has become responsible for collecting the levy concerned. 5

Compare: 2003 No 114 s 90

“67ZN **Fees, levies, and charges to constitute debt due to Secretary**

Any fee, levy, or charge that has become payable is a debt due to the Secretary, and is recoverable by the Secretary as a debt in any court of competent jurisdiction. Until paid in full, it remains a debt due to the Crown. 10

Compare: 2003 No 114 s 93

“67ZO **Penalties for failure to pay fee, levy, or charge** 15

- “(1) If a person has failed to pay to the Secretary by the due date any fee, levy, or charge payable under this subpart,—
- “(a) section 14 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 applies to increase the amount payable; and 20
- “(b) section 15 of that Act applies to allow the Secretary, in appropriate cases, to waive the payment of all or any of the amount of any such increase; and
- “(c) section 16 of that Act applies to allow the Secretary to withdraw, or refuse to provide the person in default with, any service of the kind to which the debt relates. 25
- “(2) For the purposes of **subsection (1)(c)** and section 16 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997, and without limiting the generality of section 16 of that Act, the references in those provisions to the refusal to provide any service are to be treated as also authorising the Secretary, in an appropriate case, to refuse to perform any function under this Act leading to the issue of units in relation to the person in default. 30
- “(3) If the refusal requires the Secretary to provide any further service, or perform any further function involved in the refusal, the Secretary may recover any reasonable amount for the additional service, function, or costs as a debt due from the 35

person who owns or is responsible for the operation concerned.

Compare: 2003 No 114 s 94

“67ZP Obligation to pay fee, levy, charge, or penalty not suspended by dispute 5

The obligation of a person to pay any fee, levy, charge, or penalty under this subpart, and the right of the Secretary to receive and recover the fee, levy, charge, or penalty, are not suspended by any dispute between the person and the Secretary regarding the person’s liability to pay the fee, levy, charge, or penalty, or the amount of the fee, levy, charge, or penalty. 10

Compare: 2003 No 114 s 95

“67ZQ Levy orders to be confirmed 15

“(1) If a levy order imposing a levy has been made under this subpart on or after 1 January in any year and before 1 July in that year, and—

“(a) have not been revoked with effect on or before 1 July in the next year; and

“(b) have not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,— 20

they are to be treated as having been revoked with the close of 30 June in that next year unless confirmed by an Act of Parliament passed on or before that day. 25

“(2) If any levy order imposing a levy has been made under this subpart after 30 June in any year and on or before 31 December in that year, and—

“(a) have not been revoked with effect on or before 1 January in the year after the next year; and 30

“(b) have not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—

they are to be treated as having been revoked with the close of 31 December in the year after the year in which they were made, unless confirmed by an Act of Parliament passed on or before that day. 35

Compare: 2003 No 114 s 96”.

- 31 Amendments to Forestry Rights Registration Act 1983**
- (1) Section 2 of the Forestry Rights Registration Act 1983 is amended by inserting, in their appropriate alphabetical order, the following definitions: 5
- “**forest sink** means a forest grown in a way that qualifies for removal units under the Protocol
- “**Protocol** has the same meaning as in section 4(1) of the Climate Change Response Act 2002
- “**removal unit** has the same meaning as in section 4(1) of the Climate Change Response Act 2002 10
- “**units** has the same meaning as in section 4(1) of the Climate Change Response Act 2002”.
- (2) Section 2A(2)(b) of the Forestry Rights Registration Act 1983 is amended by inserting, after the word “crop” in the second place where it appears, the words “including units based on carbon sequestration that are received in accordance with a forest sink covenant”. 15
- 32 Consequential amendment to Privacy Act 1993**
- Part 1 of Schedule 2 of the Privacy Act 1993 is amended by inserting, in its appropriate alphabetical order, the following item: 20
- Climate Change Response Act 2002 Sections 18, 20, 26, 27, and 28