

House of Representatives
Supplementary Order Paper

Thursday, 19 November 2009

**Climate Change Response (Moderated Emissions
Trading) Amendment Bill**

Proposed amendments

Charles Chauvel, in Committee, to move the following amendments:

Clause 6

To insert before the definition of **animal welfare export certificate** (before line 32 on page 9) the following definition:

“**1990 baseline** means the level of New Zealand emissions in 1990”

To insert after the definition of **animal welfare export certificate** (after line 32 on page 9) the following definition:

“**Committee** means the Climate Change Advisory Committee established by section 245”

To insert after the definition of **Crown holding account** (after line 2 on page 10) the following definitions:

“**emissions for which New Zealand is responsible**, in relation to a period, means net New Zealand emissions reduced by the quantity of Kyoto Units retired during that period

“**intermediate target** means a target set for the level emissions for which New Zealand is responsible for a target period under section 225

“**New Zealand emissions** means emissions of greenhouse gases from sources in New Zealand

“**New Zealand removals** means removals of greenhouse gases from the atmosphere due to land use, land-use change or forestry activities in the New Zealand

“**net New Zealand emissions** in respect of a period means the amount of New Zealand emissions in the period reduced by the amount of New Zealand removals in the period”

To insert after the definition of **solid biofuel** (after line 4 on page 10) the following definitions:

“**target for 2050** means the target set for the level emissions for which New Zealand is responsible in 2050 in section 224

“**target period** means each succeeding period of five years beginning with the period 2013–2017”.

New clauses 11A to 11D

To insert the following new clauses after *clause 11* (after line 7 on page 13):

11A Primary functions of inventory agency

Section 32(1) is amended by inserting the following paragraph after paragraph (a):

“(aa) prepare annually long-term forecasts of the future human-induced emissions by sources and removals by sinks of greenhouse gases in accordance with section 31A; and”

11B Forecasts of future emissions

The following section is inserted after section 32:

“**32A Forecasts of future emissions**

“(1) The forecasts referred to section 31(1)(c) must—

“(a) relate to a period of at least 50 consecutive years commencing with the year in which the forecast is prepared; and

“(b) be accompanied by—

“(i) a statement of responsibility signed by the inventory agency stating that the forecasts have been prepared using the agency’s best professional judgment; and

“(ii) a statement of the methodology used to prepare the forecasts; and

“(iii) a statement of all significant assumptions underlying the forecasts.

“(2) Before finalizing the forecasts, the inventory agency shall seek and consider a written report from the Committee on the appropriateness of the forecasts and the methodology used in preparing the forecasts.

“(3) At the same time as the agency publishes the forecasts under section 35, the agency shall also publish the report of the Committee.”

11C Inventory agency under direction of Minister

Subsection 33(1) is repealed and the following subsections are inserted:

- “(1) Subject to subsection (1A), the inventory agency must comply with any direction from the Minister in relation to the performance of its functions under this Part.
- “(1A) The Minister may not direct the inventory agency in relation to the preparation of a forecast of under subsection 31(1)(c).”

11D Publication

Section 35 is amended by repealing “and” and substituting “, the forecast of future emissions and”.

Clause 22

To omit section 70(3) (lines 4 to 6 on page 19).

Clause 38

To omit *new sections 160 and 161* (line 31 on page 53 to line 11 on page 58).

New clause 41A

To insert, after *clause 41* (after line 27 on page 65), the following:

41A Requirement to consult Committee before recommending the making of Regulations

The following section is inserted after section 168:

“168A Requirement to consult Committee before recommending the making of Regulations or orders in Council

- “(1) Before regulations under section 30G, 50, 161A or 162 to 168 are made, the Minister must seek and consider a written report from the Committee.
- “(2) Before an Order in Council under section 70 or 71 is made, the Minister must seek and consider a written report from the Committee.
- “(3) At the same time as—
 - “(a) a regulation made under section 30G, 50, 161A or 162 to 168 or an Order in Council made under section 71 is laid before the House of Representatives under section 4 of the Regulations (Disallowance) Act 1989:
 - “(b) an Order in Council made under section 70 is made available under section 70(4)—
 - “the Minister must present to the House of Representatives—
 - “(a) the Committee’s report; and
 - “(b) if a regulation or Order in Council contains provision different from those recommended by the Committee, a statement setting out the Minister’s reasons for those differences.”

New clause 41B

To insert, after *clause 41* (after line 27 on page 65), the following:

41B Requirement to consult

In section 173(2)(d), “make.” is replaced by “make; and” and the following is added:

“(f) seek and consider a report from the Committee.”

Clauses 62 and 63

To omit *clauses 62 and 63* (lines 4 to line 25 on page 35) and substitute the following:

62 New Parts inserted

Part 6 is repealed and the following Parts are substituted:

“Part 6**“Emissions reduction targets***“Targets***“224 The target for 2050**

It is the duty of the Minister to ensure that the level of emissions for which New Zealand is responsible for the year 2050 is at least 50% lower than the 1990 baseline.

“225 Intermediate targets

“(1) The Governor-General may from time to time, on the recommendation of the Minister, by Order in Council, set an intermediate target for a target period.

“(2) The intermediate target for a target period may be set at any time after this Part comes into force, and must be set—

“(a) for the periods 2013–2017, 2018–2022 and 2023–2027, before 1 June 2011;

“(b) for any later period, not later than 30 June in the 12th year before the beginning of the period in question.

“(3) The intermediate target for any target period commencing after 2017 must be no greater than the intermediate target that applied in the immediately preceding target period.

“226 Duty of Minister to ensure intermediate targets are met

If an intermediate target has been set for a period, it is the duty of the Minister to ensure that the level of emissions for which New Zealand is responsible are less than the intermediate target for that period.

“227 Level of intermediate targets for particular periods

The intermediate target—

“(a) for the target period including the year 2020, must be such that the annual equivalent of the level of emissions

for which New Zealand is responsible is in 2020 at least 10% lower than the 1990 baseline;

- “(b) for the target period including the year 2050, must be such that the annual equivalent of the level of emissions for which New Zealand is responsible is in 2050 50% lower than the 1990 baseline.

“228 Orders to be confirmed

Where an order has been made under section 225, and—

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

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

“it shall be deemed to have been revoked with the close of 30 June in that next year unless it has been confirmed by an Act of Parliament passed on or before that day.

“229 Draft Orders

- “(1) Before recommending that an order be made under Section 225, the Minister must prepare a draft order and a statement setting out the reasons why the Minister proposes to recommend the making of the order in the form proposed.

- “(2) The Minister must ensure that—

- “(a) public notice is given of any draft orders; and

- “(b) the draft order and the statement are made available in hard copy at the office of, and is accessible via the Internet site of, the Ministry for the Environment and at such other places as the Minister considers appropriate.

- “(3) The notice of a draft order given under subsection (2) must specify—

- “(a) how a hard copy of the draft order may be obtained; and

- “(b) that any person may make a submission to the Committee on the draft order, how submissions may be made, and by what date (which must be no earlier than 40 working days after the date on which notice is given).

“230 Consultation with Committee on order

- “(1) Before recommending that an order be made under Section 225, the Minister must obtain, and take into account, the advice of the Committee.

- “(2) Before tendering its advice to the Minister, the Committee must have regard to:

- “(a) the statement prepared by the Minister under section 229(1); and

- “(b) any submissions received.

- “(3) At the same time as an order is laid before the House of Representatives under section 4 of the Regulations (Disallowance) Act 1989, the Minister must present to the House of Representatives—
- “(a) the advice received from the Committee; and
 - “(b) if the order makes provision different from that recommended by the Committee, a statement setting out the Minister’s reasons for those differences.

“231 Matters to be taken into account in connection with intermediate targets

- “(1) The following matters must be taken into account—
- “(a) by the Minister in coming to any decision relating to intermediate targets, and
 - “(b) by the Committee in considering its advice in relation to any such decision.
- “(2) The matters to be taken into account are—
- “(a) scientific knowledge about climate change;
 - “(b) technology relevant to climate change;
 - “(c) economic circumstances, and in particular the likely impact of the decision on the economy and the competitiveness of particular sectors of the economy;
 - “(d) fiscal circumstances, and in particular the likely impact of the decision on taxation, public spending and public borrowing;
 - “(e) social circumstances;
 - “(f) energy policy, and in particular the likely impact of the decision on energy supplies and the carbon and energy intensity of the economy;
 - “(g) circumstances at an international level.
- “(3) Nothing in this section is to be read as restricting the matters that the Minister or the Committee may take into account.

“Proposals and policies for meeting targets

- “232 Duty to prepare proposals and policies for meeting targets**
The Minister must prepare such proposals and policies as the Minister considers will enable the target for 2050 and such intermediate targets as may be set to be met.

“233 Duty to report on proposals and policies for meeting targets

- “(1) At the same time as an order setting an intermediate target for a target period is laid before the House of Representatives under section 4 of the Regulations (Disallowance) Act 1989, the Minister must present to the House of Representatives a

report setting out proposals and policies for meeting the target for the current and future periods up to and including that period.

- “(2) The report must, in particular, set out—
- “(a) the Minister’s current proposals and policies under section 232; and
 - “(b) the time-scales over which those proposals and policies are expected to take effect.
- “(3) The report must explain how the proposals and policies set out in the report affect different sectors of the economy and society.

“**234 Regard to be had for domestic action on climate change**

In exercising functions under this Part involving consideration of how to meet—

- “(a) the target for 2050; or
 - “(b) an intermediate target;—
- “the Minister must have regard to the need for reductions in New Zealand emissions or increases in New Zealand removals.

“**Part 7**

“**The Advisory Committee on Climate Change**

“Subpart 1—Establishment, objective, and functions of Committee

“*Establishment of Committee*

“**235 Advisory Committee on Climate Change established**

This section establishes the Advisory Committee on Climate Change.

“**236 Committee is Crown entity**

- “(1) The Committee is an independent Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- “(2) The Crown Entities Act 2004 applies to the Committee except to the extent that this Act expressly provides otherwise.

“**237 Board of Committee**

- “(1) The Committee consists of no fewer than 5, and no more than 7, members.
- “(2) Members of the Committee are the board for the purposes of the Crown Entities Act 2004.

“238 How members appointed

- “(1) The Minister must comply with this section in appointing or reappointing members.
- “(2) The Minister must request nominations for members of the Committee, and allow 1 month to receive nominations, by giving public notice—
- “(a) in the *Gazette*; and
 - “(b) in daily newspapers circulating in Auckland, Hamilton, Wellington, Christchurch, and Dunedin; and
 - “(c) on a website maintained by, or on behalf of, the Ministry for the Environment.
- “(3) However, the Minister may appoint a person as a member of the Committee whether or not he or she receives a nomination for the person under subsection (2).
- “(4) In appointing members, the Minister must consider the need for the Committee to have available to it, from its members, knowledge, skill, and experience relating to—
- “(a) climate change, including climate change science:
 - “(b) the environment:
 - “(c) economics:
 - “(d) trade, commerce and industry:
 - “(e) agriculture and forestry:
 - “(f) tikanga Māori:
 - “(g) matters that are likely to come before the Committee
 - “(h) New Zealand’s international obligations under the Convention and the Protocol and any other relevant international agreement:
 - “(i) the operation of the emissions trading scheme established under this Act, including its environmental, social, and economic effects.
- “(5) The Minister must notify an appointment in the *Gazette* as soon as practicable after appointing the member to the Board.

*“Objectives, functions and duties of Committee***“239 Objectives of Committee**

The principle objectives of the Committee are—

- “(a) to provide independent advice to the Minister on matters relating to the public policy response to climate change; and
- “(b) to enable the more effective participation of the people of New Zealand in the making of laws and policies relating to the public policy response to climate change; and
- “(c) to support informed debate within New Zealand on the public policy response to climate change matters.

“240 Functions of Committee

In meeting its objectives under Section 239, the Committee has the following functions:

- “(a) to advise the Minister on the public policy response to climate change:
- “(b) to obtain, monitor, analyse, collate, and disseminate information relating to the public policy response to climate change, both in New Zealand and elsewhere:
- “(c) to develop and promote methods of improving the effectiveness of the public policy response to climate change from time to time implemented by the Government of New Zealand:
- “(d) to facilitate the participation of the people of New Zealand in the making of laws and policies relating to the public policy response to climate change, including the promotion of education about climate change issues and the publication of information about those issues:
- “(e) to monitor the effects of the public policy response to climate change that are being implemented in New Zealand;
- “(f) to conduct periodic reviews of the emissions trading scheme established by this Act, in accordance with Subpart 4:
- “(g) to keep under review all the provisions of this Act, and the operation and effect of those provisions in practice:
- “(h) to perform such other functions as are conferred on the Committee by this Act or any other enactment.

“Subpart 2—Advice on targets

“241 Advice on level of 2050 target

- “(1) It is the duty of the Committee to advise the Minister on—
 - “(a) whether the target for 2050 should be amended, and
 - “(b) if so, what the amended target should be.
- “(2) The Committee must give its advice under this section not later than 1 December 2011.

“242 Advice in connection with intermediate targets

It is the duty of the Committee to advise the Minister from time to time, in relation to each target period, on—

- “(a) the level of the intermediate target for the period,
- “(b) the costs and benefits of setting such a target;
- “(c) the extent to which the intermediate target for the period should be met—
 - “(i) by reducing the amount of net New Zealand emissions, or

- “(ii) by the retirement of Kyoto units;
- “(d) the sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the intermediate target for the period through reductions in emissions of greenhouse gases.

“243 Requirement to consult

- “(1) Before giving advice under sections 241 or 242, the Committee must consult the persons (or representatives of those persons) that appear to the Committee likely to be substantially affected by any targets.
- “(2) The process for consultation must, to the extent practicable in the circumstances, include—
 - “(a) giving adequate and appropriate notice of the proposed terms of the Committee’s advice, and of the reasons for it; and
 - “(b) the provision of a reasonable opportunity for interested persons to consider the proposed advice and make submissions; and
 - “(c) adequate and appropriate consideration of submissions.

“244 Procedure once advice completed

- “(1) The Committee must present its advice under sections 241 or 242, and the reasons for that advice, in a written report to the Minister.
- “(2) Within 2 months of receiving a report from the Committee, the Minister must—
 - “(a) publish the report; and
 - “(b) present to the House of Representatives:—
 - “(i) a copy of the report; and
 - “(ii) the Minister’s response to the report.

“Subpart 3—Reports and other advice**“245 Reports on progress**

- “(1) It is the duty of the Committee to prepare and present to the Ministers each year, beginning with the year 2011, a report setting out the Committee’s views on—
 - “(a) the progress that has been made towards meeting the target for 2050 and any intermediate targets that have been set;
 - “(b) the further progress that is needed to meet those targets;
 - “(c) whether those targets are likely to be met.
- “(2) The Committee’s report in the second year after the end of a target period must also set out the Committee’s general views on—

- “(a) the way in which the target for the period was or was not met, and
- “(b) action taken during the period to reduce net New Zealand emissions.
- “(3) The first report under this section must be presented to the Minister not later than 1 December 2011.
- “(4) Each subsequent report under this section must be presented to the Minister not later than 30 June in the year in which it is made.
- “(5) Within 2 months of receiving a report under this section, the Minister must present to the House of Representatives—
 - “(a) the report; and
 - “(b) the Minister’s response to the report.

“246 Duty to provide advice or other assistance on request

The Committee must, at the request of the Minister, provide advice, analysis, information or other assistance to the Minister or such other person as the Minister directs, in connection with—

- “(a) the Minister’s functions under this Act;
- “(b) the progress made towards meeting the objectives set by or under this Act;
- “(c) adaptation to climate change;
- “(d) any other matter relating to the public policy response to climate change.

“Subpart 4—Review of the emissions trading scheme

“247 Reviews of operation of emissions trading scheme

The Committee must undertake a review of the operation and effectiveness of the emissions trading scheme established by this Act, to be completed no later than 12 months before the end of—

- “(a) the first commitment period; and
- “(b) each the subsequent commitment period; and
- “(c) if there is no subsequent commitment period,—
 - “(i) the 5-year period commencing on 1 January 2013; and
 - “(ii) each subsequent 5-year period after the period specified in subparagraph (i).

“248 Minister may specify matters to be reviewed

- “(1) For each review to be conducted under section 247, the Minister may, not later than 12 months before the date on which the review is required to be completed, specify, by notice in writing addressed to the Committee,—

- “(a) the aspects of scheme the review is required to address;
and
- “(b) the topics to be discussed in the Commissioner’s report.
- “(2) Before giving a notice under subsection (1) the Minister must consult with the Committee about the matters to be included in it.
- “(3) The Minister must, as soon as practicable after giving a notice under subsection (1), present a copy of that notice to the House of Representatives.
- “(4) Each review conducted under section 247 must address the aspects of scheme required to be addressed by the notice relating to that review and the report must discuss the topics required to be discussed by that notice.
- “(5) Nothing in this section is to be read as restricting the matters that the Minister or the Committee may take into account.

“249 Scope of Reviews

Without limiting the scope of the review, a review under section 247 must consider—

- “(a) whether an amendment to this Act in relation to the emissions trading scheme is necessary or desirable; and
- “(b) whether New Zealand has undertaken, or is expected to undertake, any international obligations with respect to its emissions and removals that are different from or additional to any international obligations that New Zealand had undertaken when this section came into force, or since the last review under this section; and
- “(c) the stringency of any of the international obligations specified in paragraph (b); and
- “(d) the contribution of the emissions trading scheme established under this Act to progress toward the target for 2050 and any intermediate targets that are in effect in accordance with section 224 at the time the review is initiated; and
- “(e) the types of Kyoto units and overseas units that may be surrendered for compliance with the emissions trading scheme established by this Act; and
- “(f) the operation of the commitment period reserve (if any); and
- “(g) potential for linkage of the emissions trading scheme established under this Act to other greenhouse gas emissions trading schemes; and
- “(h) the appropriateness of any methodologies that are prescribed for calculating emissions and removals; and
- “(i) whether it is necessary or desirable to—

- “(i) omit any of the activities from Schedule 3 or 4; and
- “(ii) add any additional removal activities to Part 2 of Schedule 4; and
- “(iii) amend the level of participant opt-in thresholds in Schedule 4; and
- “(j) what consequential changes to subpart 2 of Part 4 in respect of allocation plans are necessary or desirable having regard to—
 - “(i) whether New Zealand has undertaken, or is expected to undertake, any international obligations with respect to its emissions and removals that are different from, or additional to, any international obligations that New Zealand had undertaken when this section came into force, or since the last review under this section; and
 - “(ii) the stringency of any of the international obligations specified in subparagraph (i); and
 - “(iii) whether it is necessary or desirable to omit any activities from Schedules 3 and 4; and
 - “(iv) the relative climate change obligations and emissions policies of New Zealand’s trade competitors and trading partners; and
 - “(v) any significant changes in emissions mitigation technology; and
 - “(vi) the cost to the tax payer and the economy of providing free allocation under subpart 2 of Part 4; and
- “(k) the appropriateness of the penalties in subpart 4 of Part 4; and
- “(l) the implications (if any) of the following matters for the notification of intention under section 70:
 - “(i) New Zealand’s annual emissions for the 5 years before notification; and
 - “(ii) the average price of units for the 2 years before notification; and
- “(m) the impacts of the forestry sector elements of the emissions trading scheme established under this Act on biodiversity within New Zealand; and
- “(n) the costs and benefits of establishing an independent or quasi-independent government body to carry out the allocation process, or part of the allocation process, contained in subpart 2 of Part 4; and
- “(o) social, economic, and environmental effects of the emissions trading scheme established by this Act (other than those considered under paragraphs (a) to (l)); and

“(p) any other matter that the Committee considers relevant.

“250 Conduct of Reviews

“(1) In conducting a review, the Committee must—

“(a) set and make public the terms of reference for the review; and

“(b) establish and make public a procedure that is appropriate, fair in the circumstances, and in accordance with the terms of reference for the review; and

“(c) consult the persons (or representatives of those persons) that appear to the Committee likely to be substantially affected by the emissions trading scheme.

“(2) The process for consultation must, to the extent practicable in the circumstances, include—

“(a) the provision of a reasonable opportunity for interested persons to make submissions; and

“(b) adequate and appropriate consideration of submissions.

“251 Procedure once review completed

“(1) The Committee must present the results of a review under section 247 in a written report to the Minister.

“(2) Within 2 months of receiving a report from the Committee, the Minister must—

“(a) (publish the report; and

“(b) present to the House of Representatives:—

“(i) a copy of the report; and

“(ii) the Minister’s response to the report.

“252 Other Reviews

The Minister may initiate reviews of the operation and effectiveness of the emissions trading scheme established by this Act at any time and may use any method of review (including, but not limited to, directing the Committee to undertake the review).”

New clause 67

To insert, after *clause 66* (after line 11 on page 97), the following:

67 Consequential amendments to other Acts

(1) Part 3 of Schedule 1 of the Crown Entities Act 2004 is amended by inserting “Advisory Committee on Climate Change” in its appropriate alphabetical order.

(2) Part 2 of Schedule 1 of the Ombudsmen Act 1975 is amended by inserting the “Advisory Committee on Climate Change” in its appropriate alphabetical order.

Explanatory note

The purpose of this Supplementary Order Paper is to amend the Climate Change Response (Moderated Emissions Trading) Amendment Bill as reported by the Finance and Expenditure Committee to improve transparency and effectiveness. The changes set national targets for the reduction of greenhouse gas emissions in both the medium and long-term and establishes an independent Advisory Committee on Climate Change, to increase accountability and transparency in the making of the public policy response to climate change.
