

House of Representatives  
Supplementary Order Paper

Tuesday, 6 November 2012

Climate Change Response (Emissions Trading and  
Other Matters) Amendment Bill

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*Proposed amendments*

Dr Kennedy Graham, in Committee, to move the following amendments:

*Clause 5*

In *clause 5*, insert as subsection (2) (after line 23 on page 10):

- (2) In section 3(1)(c)(ii), after “levels”, insert “; and”, and also insert:
- “(d) implement national mitigation measures consistent with the global goal of long-term stabilisation of all greenhouse gases in the atmosphere at no higher than 450 ppm CO<sub>2</sub>-equivalent, requiring reductions in national emissions of States Parties to the Kyoto Protocol (Annex I) below their 1990 levels, within the ranges called for by States Parties to the UN Framework Convention on Climate Change, at their 16th Conference (Decision 1/CMP.6, para. 4; in FCCC/KP/CMP/2010/12/Add.1 of 10 December 2010).”

*Clause 7:*

In *clause 7(1)*, after the definition of **annual financial statements of the Government** (after line 4 on page 11), insert:

**carbon floor price** means the amount specified in **section 69B(4)**

*New clause 27A*

After *clause 27* (after line 6 on page 22), insert:

**27A Liability to surrender units to cover emissions**

In section 63, after “by the EPA.”, insert:

- “(3) Despite anything in this Act, where a participant is liable to surrender units under this Act, 2% of the units transferred under section 18C must be units issued to a forest sink registered under a forest sink covenant as defined in section 67X of the Forests Act 1949.
- “(4) The Governor-General may, on the advice of the Minister, increase, by Order in Council, the percentage of units issued to a forest sink that is required to be surrendered in **subsection (3)**.”

*Clause 28:*

In *clause 28, new section 63A*, replace *subsection (2)* (lines 17 to 19 on page 22) with:

- “(2) Despite anything in this Act, a person to whom this section applies is only liable to surrender, and may only surrender, the following amounts:
- “(a) for the period 1 January 2013 to 31 December 2013, 67% of a unit for each whole tonne of emissions from the activity rounded down to the nearest unit:
- “(b) for the period 1 January 2014 to 31 December 2014, 83% of a unit for each whole tonne of emissions from the activity rounded down to the nearest unit.”

*New clause 30AA*

After *clause 30* (after line 28 on page 23), insert:

**30AA New sections 69A to 69C inserted**

After section 69, insert:

**“69A Allocation of free units**

From the day after the commencement of this section, no New Zealand units may be allocated to any participant of the New Zealand emissions trading scheme, subject to any transitional arrangements leading to the full auctioning of New Zealand units as identified in **section 69B**.

**“69B Auctioning of New Zealand units**

- “(1) Despite anything in this Act, effective from 1 January 2013, an auction shall be held on 2 occasions each year, for the purchase of New Zealand units for surrender by participants of the Emissions Trading Scheme. The auction shall be conducted by the Environmental Protection Authority under the overall direction of the Minister for Climate Change Issues.
- “(2) The auction, on each occasion, shall have regard to the quantitative cap on the gross emissions of New Zealand’s greenhouse gases in each year within New Zealand’s 5-yearly National Greenhouse Gas Emissions Budget identified in **Part 2 of Schedule 5**.

“(3) No New Zealand units for surrender may be purchased in an auction held under **subsection (1)** for less than the **carbon floor price**.

“(4) The **carbon floor price** means \$10 per unit or such greater price as is set from time to time by Order in Council.

“**69C Restrictions on international units traded in New Zealand**

“(1) Subject to subsection (2), effective from 1 January 2013, the percentage of international units surrendered by the New Zealand Government for New Zealand emissions will be a maximum of 30% of its quantitative commitments as identified in **Part 2 of Schedule 5**.

“(2) At any date after 1 January 2013, the maximum percentage of international units surrendered by the New Zealand Government under **subsection (1)** may be determined by the Minister on the advice of the New Zealand Climate Change Commission, but must not be less than 30%.”

*Clause 73:*

In *new section 178A(2)(a)*, delete paragraphs (ii) and (iii) (lines 12 to 30 on page 38).

In *new section 178A(2)(b)*, delete paragraphs (ii) and (iii) (line 34 on page 38 to line 6 on page 39).

In *new section 178A*, delete subsection (3) (lines 7 to 10 on page 39).

Delete *new section 178B* (line 15 on page 39 to line 18 on page 40).

*Clause 96*

In *clause 96*, replace *new section 219(1)(a)(ii)* (lines 21 to 25 on page 57) with:

“(ii) subpart 1 or 3 of Part 5 of Schedule 3 in the period 1 January 2012 to 31 December 2013.”

*New clause 99A*

After *clause 99* (after line 33 on page 57), insert:

**99A Targets**

After *section 225*, insert:

“**225A National responsibility target**

“(1) Despite any *Gazette* notice issued under *section 224* and any regulations made pursuant to *section 225*, the national responsibility targets for annual emissions for 2020 and 2050 must be within the ranges set out in **Part 1 of Schedule 5**.

“(2) The Prime Minister must report to the House of Representatives each year, commencing 2020, on the extent to which the national responsibility targets have been achieved, and in the event of any shortfall, the report must include an explanation setting out the circumstances and the reasons for the shortfall.

**“225B National carbon-equivalent budget**

- “(1) Despite any *Gazette* notice issued under section 224 and any regulations made pursuant to section 225, the national carbon-equivalent budget for greenhouse gas emissions for a 5-year period specified in **Part 2 of Schedule 5** must be within 10% of the budget (either greater or less than) set out in **Part 2 of Schedule 5**.
- “(2) The national carbon-equivalent greenhouse gas emissions for a 5-year period specified in **Part 2 of Schedule 5** must not exceed the budget specified for that period in **Part 2 of Schedule 5**.”

*Clause 100:*

In *new section 234(6)*, replace “that **section 63A** no longer applies to any person and no person is liable to surrender, or is restricted to surrendering, 1 unit for each 2 whole tonnes of emissions” (line 35 on page 63 to line 2 on page 64) with “that, subject to **section 63A(2)**, all participants face full surrender obligations”.

Delete *new section 235* (lines 8 to 34 on page 64).

*New clause 100A*

After *clause 100* (after line 11 on page 83), insert:

**101A New Part 8 inserted**

After section 225, insert:

**“Part 8**

**“New Zealand Climate Change Commission and  
Appeals Tribunal**

**“268 New Zealand Climate Change Commission established**

This section establishes the New Zealand Climate Change Commission.

*“Functions of Commission*

**“269 Advice on level of 2050 target**

- “(1) The Commission must advise the Minister on—
- “(a) whether the percentage specified in **Part 1 of Schedule 5** should be amended; and
- “(b) if so, what the amended percentage should be.
- “(2) Advice given by the Commission under this section must also contain the reasons for that advice.
- “(3) As soon as is reasonably practicable after giving its advice to the Minister, the Commission must publish that advice in such manner as it considers appropriate.

**“270 Advice in connection with carbon budgets**

- “(1) The Commission must advise the Minister on—
- “(a) the level of the carbon budget for the period; and

- “(b) how the carbon budget should be met; and
  - “(c) the respective contributions towards meeting the carbon budget for the period that should be made—
    - “(i) by the sectors of the economy covered by the emissions trading scheme (taken as a whole); and
    - “(ii) by the sectors of the economy not so covered (taken as a whole); and
  - “(d) the sectors of the economy in which there are particular opportunities for contributions to be made towards meeting the carbon budget for the period through reductions in emissions of targeted greenhouse gases.
- “(2) Advice given by the Commission under this section must also contain the reasons for that advice.
- “(3) As soon as is reasonably practicable after giving its advice under this section the Commission must publish that advice in such manner as it considers appropriate.

**“271 Advice on emissions from international aviation and international shipping**

- “(1) The Commission must advise the Minister on the consequences of treating emission of targeted greenhouse gases from
- “(a) international aviation; and
  - “(b) international shipping.
- “(2) Advice given by the Commission under this section must also contain the reasons for that advice.
- “(3) As soon as is reasonably practicable after giving its advice under this section the Commission must publish that advice in such manner as it considers appropriate.

**“272 Reports on progress**

- “(1) The Commission must present an annual report to the House of Representatives setting out the Commission’s views on—
- “(a) the progress that has been made towards meeting the carbon budgets that have been set under Part 1 and the target in **Part 1 of Schedule 5**; and
  - “(b) the further progress that is needed to meet those budgets and that target; and
  - “(c) whether those budgets and that target are likely to be met.
- “(2) The Commission must present the report no later than 30 June in the year in which it is made.

*“Status and membership of Commission***“273 Commission is Crown entity**

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

**“274 Membership of Commission**

- “(1) The Commission consists of no more than 7, and no less than 3, members, appointed by the Governor-General, on advice from the Minister.
- “(2) The Governor-General must, on advice from the Minister, appoint 1 member to be Chief Commissioner.
- “(3) The Chief Commissioner is the chairperson of the board of the Commission for the purposes of clause 1 of Schedule 5 of the Crown Entities Act 2004.
- “(4) In addition to the appointment processes and criteria in sections 28 and 29 of the Crown Entities Act 2004, the Minister must—
  - “(a) before advising on the appointment of a member, notify a vacancy in a manner that enables suitably qualified individuals to apply for appointment; and
  - “(b) in advising on the appointment of a member, take into account the need for Commissioners to have among them a breadth of experience and expertise, and knowledge of, the following matters:
    - “(i) business competitiveness:
    - “(ii) climate change policy at national and international level, and in particular the social impacts of such policy:
    - “(iii) climate science, and other branches of environmental science:
    - “(iv) economic analysis and forecasting:
    - “(v) emissions trading:
    - “(vi) energy production and supply:
    - “(vii) financial investment:
    - “(viii) technology development and diffusion.

*“Climate Change Appeals Tribunal***“275 Climate Change Appeals Tribunal**

- “(1) This section creates the Climate Change Appeals Tribunal.
- “(2) The function of the Appeals Tribunal is to—
  - “(a) hear claims from New Zealand citizens, persons ordinarily resident in New Zealand, and any body corporate, or corporation sole, incorporated under the law of New

- Zealand who have suffered financial hardship as a result of the emissions trading scheme established by this Act since the date of entry into force of this section; and
- “(b) recommend to the Minister the payment of financial relief.
  - “(3) The Appeals Tribunal consists of 3 persons appointed by the Governor-General, on advice from the Minister.
  - “(4) The Minister must, in advising on the appointment of a member of the Appeals Tribunal, ensure that the membership has the necessary qualifications, skills, and experience to judge the validity of any claim for financial relief under this section.
  - “(5) In performing its function, the Appeals Tribunal may consider, amongst other matters, the following:
    - “(a) the increased costs incurred by the applicant as a result of the emissions trading scheme:
    - “(b) the prospect of reducing the carbon intensity of the applicant’s activities:
    - “(c) the risk of the applicant relocating outside New Zealand:
    - “(d) the extent to which the activities of the applicant may result in the reduction of accountable greenhouse gas emissions from New Zealand.”

*New clause 102A*

After *clause 102* (after line 9 on page 85), insert:

**102A New Schedule 5 inserted**

After Schedule 4, insert the *new Schedule 5* set out in *Schedule 2* of this Act.

*New Schedule 2*

After the *Schedule* (after line 15 on page 91), insert:

s 102A

ss 30AA, 99A, 101A

## Schedule 2

### New Schedule 5 inserted

### Schedule 5

### National targets

Part 1 National responsibility targets for NZ emissions in 2020 and 2050 (Mt CO<sub>2</sub>e)

	Baseline 1990	Current 2010	National Responsibility Target 2020			National Respon- sibility Target 2050	
			Target (25% to 40% off 1990)	Reduction off 2010 level		Target (80% to 95% off 1990)	Reduction off 2010 level
Excl. LULUCF	61.9	71.6					
Incl. LULUCF	61.9	55.1	<b>33.1–41.3</b>			<b>2.8–11.0</b>	
Reduction required				<b>13.8–22.0</b>			<b>44.1–52.3</b>



Part 2

National budgets for NZ greenhouse gas emissions, 2013 to 2050<sup>1</sup> (Mt CO<sub>2</sub>e)

GHGs	Reference Years											
				Trans ition	CP-1	CP-2	CP-3	CP-4	CP-5	CP-6	CP-7	Total Budget
	1990	2010	2008- 12	2013- 15	2016- 20	2021- 25	2026- 30	2031- 35	2036- 40	2041- 45	2046- 50	2016- 50
CO <sub>2</sub>												
CH <sub>4</sub>												
N <sub>2</sub> O												
HFC												
PFC												
SF <sub>6</sub>												
<b>Total CO<sub>2</sub>e</b>	62	52	310	144	219	189	159	129	99	69	41	905

<sup>1</sup> The basis of calculation is the UN-IPCC prescription for emission reductions in 2020 and 2050 by Kyoto Protocol Annex I parties (25% to 40% for 2020 and 80% to 95% for 2050). The New Zealand commitment is taken as a mid-point within those ranges (33% for 2020 and 88% for 2050). These equate to 42 Mt for 2020 and 7 Mt for 2050. Subsequent budgets reflect a straight-line reduction of an annual amount of 1.125 Mt per year, from 2010 (52 Mt) to 2050 (7 Mt), rounding to be calculated in the 5th year of each budget-period.

### **Explanatory note**

The purpose of this Supplementary Order Paper is to ensure that the New Zealand Emissions Trading Scheme achieves the purpose specified in the Climate Change Response Act 2002 (the **Act**):

- to enable New Zealand to meet its international obligations under the Convention and the Protocol, including (but not limited to)—
  - (a) its obligation under Article 3.1 of the Protocol to retire Kyoto units equal to the number of tonnes of carbon dioxide equivalent of human-induced greenhouse gases emitted from the sources listed in Annex A of the Protocol in New Zealand in the first commitment period; and
  - (b) its obligation to report to the Conference of the Parties via the Secretariat under Article 7 of the Protocol and Article 12 of the Convention;
- to provide for the implementation, operation, and administration of a greenhouse gas emissions trading scheme in New Zealand that supports and encourages global efforts to reduce greenhouse gas emissions by assisting New Zealand to meet its international obligations under the Convention and the Protocol, and by reducing New Zealand's net emissions below business-as-usual levels.

At present, the New Zealand Government has the following principal goals in its climate change policy:

- a legal obligation for meeting its responsibility target for 309.5 million Assigned Amount Units (equivalent to 309.5 million tonnes of GHGs) for the 1st Kyoto Commitment Period.
- a unilateral, and conditional, commitment to a 10% to 20% reduction in net emissions in the year 2020 off its 1990 level.
- a unilateral commitment to a 50% reduction in net emissions in the year 2050 off its 1990 level.

The Emissions Trading Scheme, introduced in 2008 and modified in 2009, already proving to be an inadequate instrument to achieve these stated goals, will be rendered totally supine by the proposed changes in the Climate Change (Emissions Trading and Other Matters) Amendment Bill (the **Bill**).

Additionally, the proposed targets above are inadequate, in themselves, to ensure that New Zealand is doing its 'fair share' in responding to the decision of the 16th Conference of the UNFCCC States Parties in Cancun to increase the level of ambition in national mitigation commitments to achieve the goal of limiting global temperature increase to 2°C above the pre-industrial level.

The Supplementary Order Paper therefore amends the Bill to achieve the following:

Targets:

- commits New Zealand to an annual emissions level for 2020 and 2050 that is the mid-point of the range prescribed in each case [33% for 2020 (range = 25% to 40% below 1990); 88% for 2050 (range 80% to 95%)]:
- commits New Zealand to 5-yearly carbon-equivalent quantitative budgets from 2016 to 2050 designed to achieve the 2020 and 2050 targets, with a quantitative limit for the period 2016 to 2050, and a phase-down in emissions over each 5-year period subject:

Independent Commission

- establishes an independent Climate Change Commission with responsibility to provide the Government with advice on targets, carbon-equivalent budgets, and measures to achieve these goals:

Appeals Tribunal

- establishes a ministerial Appeals Tribunal that will receive appeals from participants and all other New Zealanders regarding any alleged financial hardship incurred as a result of the amended Act, with recommendations for financial relief:

Measures

- provides for amendments to the Emissions Trading Scheme that introduces an effective pathway to the above goals, namely—
  - (a) introduction of a price floor and termination of the price-cap:
  - (b) phase-out of the 1-for-2 surrender obligation:
  - (c) termination of the issuance of free allocations to participants:
  - (d) introduction of auctioning of NZ Units, commencing in 2013:
  - (e) restrictions on international units that can be traded and surrendered in New Zealand:
  - (f) introduction of agriculture into the scheme in 2014:
  - (g) requirement on ETS participants, who are purchasing units under the Scheme, to purchase a minimum percentage of those units in the form of units held by participants in the Permanent Forest Sink Initiative.