

House of Representatives
Supplementary Order Paper

Tuesday, 2 September 2008

Climate Change (Emissions Trading and
Renewable Preference) Bill

Proposed amendments

Hon David Parker, in Committee, to move the following amendments:

Clause 6(2)

New definition of **allocation plan**: to omit this definition (line 10 on page 16) and substitute the following definition:

“**allocation plan** means an allocation plan issued under **section 73 or 73A**”

Clause 17

Heading to clause 17: to omit “**18CA and 18CB**” (line 10 on page 32) and substitute, “**18CA, 18CB, 18CC, and 18CD**”.

Clause 17: new sections 18CB, 18CC, and 18CD

To omit *new section 18CB* (line 26 on page 33 to line 12 on page 34) and substitute the following sections:

“**18CB Restriction on surrender of assigned amount units**”

- “(1) No participant may surrender, or permit to be surrendered, an imported assigned amount unit to meet the participant’s obligations under **section 63** unless the assigned amount unit meets the conditions or requirements prescribed in regulations made under this Part.
- “(2) In this section and **section 18CD**, **imported assigned amount unit** means an assigned amount unit that is issued out of the initial assigned amount of a Party other than New Zealand.

“18CC Restriction on surrender of assigned amount units issued during first commitment period

- “(1) No participant may surrender, or permit to be surrendered, a CP1 imported assigned amount unit to meet the participant’s obligations under **section 63** in respect of any emissions from any activities listed in **Schedule 3 or 4** carried out by the participant after **31 December 2012**.
- “(2) In this section and **sections 18CD and 19**, **CP1 imported assigned amount unit** means an assigned amount unit that is issued out of the initial assigned amount of a Party, other than New Zealand, during the first commitment period.

“18CD Effect of surrendering restricted assigned amount units

- “(1) This section applies if at any time the Registrar discovers that—
- “(a) an imported assigned amount unit has been transferred to a surrender account that does not meet any of the conditions or requirements prescribed in regulations made under this Part; or
 - “(b) a CP1 imported assigned amount unit has been transferred to a surrender account to meet a participant’s obligations under **section 63** in respect of any emissions from any activities listed in **Schedule 3 or 4** carried out by the participant after **31 December 2012**.
- “(2) If this section applies, the Registrar must—
- “(a) reverse the transfer; and
 - “(b) notify the participant and the chief executive of the department responsible for the administration of **Part 4** that the transfer has been reversed.
- “(3) If a transfer is reversed under **subsection (2)**,—
- “(a) the chief executive of the department responsible for the administration of **Part 4** must treat the transfer as never taking place for the purpose of assessing whether a participant has surrendered the required number of units by the due date as required under any section of this Act; and
 - “(b) if the chief executive of the department responsible for the administration of **Part 4** considers that the person has not surrendered the required number of units by the due date, give a notice to the participant under **section 121(3)(a)**.

Clause 43: new sections 69A and 69B

To insert the following sections after *new section 69* (after line 19 on page 84):

“69A Establishment of Innovation Fund

- “(1) The Minister must establish a fund (the **Innovation Fund**) for the purpose of facilitating deployment of innovative technology that significantly reduces or avoids, or has the potential to significantly reduce or avoid, greenhouse gas emissions from the industrial sector, or a part of the industrial sector.
- “(2) The Innovation Fund consists of the New Zealand units allocated to it in accordance with **subsection (4)**.
- “(3) The Minister—
- “(a) must ensure that there is an Innovation Fund for the period from **1 January 2010 to 31 December 2012**; and
 - “(b) may, following the completion of a review under **section 147(1)**, continue the Innovation Fund for—
 - “(i) any subsequent commitment period following the first commitment period; or
 - “(ii) if there is no subsequent commitment period following the first commitment period,—
 - “(A) the 5-year period commencing on **1 January 2013**; or
 - “(B) any subsequent 5-year period after the period specified in **subsubparagraph (A)**; and
 - “(c) must disestablish the Innovation Fund no later than **31 December 2029**.
- “(4) An allocation plan—
- “(a) must provide for 150,000 of the New Zealand units available for allocation under the plan in each year from **1 January 2010 to 31 December 2012** to be allocated to the Innovation Fund; and
 - “(b) may, if the Innovation Fund is continued after **31 December 2012**, provide for any number of New Zealand units available for allocation under the plan to be allocated to the Innovation Fund.
- “(5) The Minister may make grants of New Zealand units from the Innovation Fund.
- “(6) Grants under **subsection (5)** must be made available on a contestable basis—
- “(a) to persons who meet the requirements of **section 69(2)(a)(i)** and—
 - “(i) meet the requirements of **section 69(2)(a)(iii)**, but are not receiving an allocation of New Zealand units in accordance with an allocation plan; or

- “(ii) carry out an activity listed in **Part 4 of Schedule 3 or Part 4 of Schedule 4**, but are not receiving an allocation of New Zealand units in accordance with an allocation plan in respect of that activity; or
 - “(iii) face cost increases in respect of the matters referred to in **section 69(2)(a)(iii)(B)**, but are not receiving an allocation of New Zealand units in accordance with an allocation plan in respect of those costs; and
 - “(b) in accordance with any criteria the Minister considers appropriate.
- “(7) If in any year the number of New Zealand units in the Innovation Fund are not fully granted and the Innovation Fund—
- “(a) is to continue in the following year, the remaining New Zealand units may be granted under **subsection (5)** in any subsequent year in which the Innovation Fund is continued; or
 - “(b) will not be continued in the following year, the remaining New Zealand units may be made available for allocation in accordance with an allocation plan that applies in that following year.
- “(8) In this section, **allocation plan** means an allocation plan providing for the matters in **section 69**.

“69B Allocation to fishing vessel operators

- “(1) The Minister must exercise his or her powers under this subpart to ensure that an allocation plan that provides for the matters in this section and **section 72(2)** is in force for the period from **1 January 2011 to 31 December 2013**.
- “(2) The matters that an allocation plan must provide for are—
- “(a) an allocation of New Zealand units free of charge to persons who—
 - “(i) are or were fishing vessel operators in any year or years specified in the allocation plan; and
 - “(ii) meet any tests or thresholds that are specified in the allocation plan; and
 - “(b) a total number of New Zealand units available for allocation under the allocation plan calculated in accordance with the following formula:

$$A = 0.5 \times B \times 3$$

where—

A is the total number of New Zealand units available for allocation under the allocation plan

- B is the total number of tonnes of emissions that the Minister is satisfied resulted in **2005** from the consumption of obligation fuel by fishing vessels—
- (a) required to be registered under section 103 of the Fisheries Act 1996; and
 - (b) registered under that section in **2005**.
- “(3) For the purposes of this section,—
- “**fishing vessel** has the same meaning as in section 2(1) of the Fisheries Act 1996
 - “**fishing vessel operator** means the operator of a fishing vessel that is required to be registered under section 103 of the Fisheries Act 1996
 - “**operator**, in relation to a fishing vessel, means the person who, by virtue of ownership, a lease, a sublease, a charter, a subcharter, or otherwise, for the time being has lawful possession and control of the fishing vessel.

Clause 43: new section 73(2)–(6)

To omit these subsections (line 4 on page 89 to line 9 on page 90) and substitute the following subsections:

- “(2) The allocation plan must—
- “(a) specify the matters set out in **section 72(2)**; and
 - “(b) incorporate any changes made to the draft allocation plan under **section 72(8)**; and
 - “(c) be presented to the House of Representatives as soon as practicable after it is issued, along with the report provided to the Minister under **section 72(7)** and any of the Minister’s decisions on the recommendations contained in the report.
- “(3) An allocation plan providing for the matters in—
- “(a) **section 68** comes into force on the day after it is presented to the House of Representatives;
 - “(b) **section 69, 69B, or 70** comes into force 15 sitting days after it is presented to the House of Representatives unless the House resolves, in that period, to disapply the allocation plan.
- “(4) If Parliament is dissolved or expires before the end of the period of sitting days within which the House of Representatives must resolve to disapply an allocation plan under **subsection (3)(b)**, and the House has not, by that time, resolved to disapply the allocation plan, then the allocation plan comes into force on the day the House is dissolved or expires.

Clause 43: new section 73A

To insert the following section after *new section 73* (after line 9 on page 90):

“73A Correction and publication of allocation plans

- “(1) For the purpose of correcting any minor mistakes or defects in an allocation plan, the Minister may, without complying with **section 72**, recommend that the Governor-General revoke that allocation plan and replace it with a corrected allocation plan.
- “(2) A corrected allocation plan—
- “(a) comes into force at the time it is issued; and
 - “(b) must, for advisory purposes, be presented to the House of Representatives as soon as practicable after it is issued; and
 - “(c) to avoid doubt, may not be disappplied by the House of Representatives under **section 73(3)(b)**.
- “(3) The Minister must, as soon as practicable after an allocation plan or a corrected allocation plan comes into force, ensure that—
- “(a) the allocation plan or corrected allocation plan is made available in hard copy at the office of, and is accessible via the Internet site of, the department of the chief executive responsible for the administration of the Act; and
 - “(b) the allocation plan or corrected allocation plan is published in whatever other form the Minister considers appropriate; and
 - “(c) in respect of an allocation plan, the report provided to the Minister under **section 72(7)** is published in whatever form the Minister considers appropriate, along with any of the Minister’s decisions on the recommendations contained in the report; and
 - “(d) in respect of a corrected allocation plan, a summary of the corrections is made available in hard copy at the office of, and is accessible via the Internet site of the department of, the chief executive responsible for the administration of the Act.
- “(4) An allocation plan or corrected allocation plan is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but it is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Clause 43: new section 74

To insert the following paragraph after *paragraph (e)* (after line 7 on page 91):

- “(ea) criteria and methodologies to be included in an allocation plan should ensure that firms and individuals considered to be trade-exposed only receive New Zealand units free of charge in respect of the parts of their busi-

ness operations that are involved in the production of goods that are trade-exposed:

Clause 43: new section 147(3)

To insert the following paragraph after *paragraph (ba)* (after line 20 on page 153):

“(bb) the contribution of the emissions trading scheme established under this Act to progress toward any targets that are in effect in accordance with **section 181** at the time the review is initiated; and

To insert the following paragraphs after *paragraph (k)* (after line 30 on page 154):

“(ka) the operation of the Innovation Fund established under **section 69A**; and

“(kb) the impacts of the forestry sector elements of the emissions trading scheme established under this Act on biodiversity within New Zealand; and

“(kc) 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** of this Act; and

Clause 43: new section 166(1)

To insert the following paragraph after *paragraph (b)* (after line 13 on page 184):

“(ba) must be accompanied by a declaration, in the prescribed form, that any action taken by the applicant after **1 January 2008** in relation to the post-1989 forest land in respect of which the application is submitted (including, but not limited to, removal of any existing vegetation prior to planting of the forest species on the land) complied with the provisions of the Resource Management Act 1991, including any plan under that Act, and the Forests Act 1949, as in force at the time that the action was taken; and

Clause 43: new Part 6

To insert the following Part after *new section 179* (after line 37 on page 215):

“Part 6

“Other matters

“180 Establishment of Household Fund

“(1) This section establishes a fund for the purpose of reducing non-transport household greenhouse gas emissions through the promotion of household energy efficiency and conservation and household renewable energy technologies (the **Household Fund**).

- “(2) A total of 1,000,000,000 New Zealand dollars must be paid to the Household Fund, from money appropriated by Parliament for the purpose, during the period beginning on the date of commencement of this section and ending on **1 July 2024**.
- “(3) Without limiting **subsection (1)**, the Household Fund may be used for purposes that include (but are not limited to) the delivery, marketing and promotion of, and provision of grants relating to—
- “(a) household insulation and clean heat retrofits:
 - “(b) energy efficient appliances and lighting:
 - “(c) space and water heating efficiency improvements.
- “(4) The Minister—
- “(a) must, as soon as practicable after this section comes into force, determine the criteria for the use of the Household Fund; and
 - “(b) may re-determine the criteria at any time.
- “(5) Before determining or re-determining the criteria for the use of the Household Fund, the Minister must seek and consider the advice of the Energy Efficiency and Conservation Authority.
- “(6) When advising the Minister on the criteria for the use of the Household Fund, the Energy Efficiency and Conservation Authority must have regard to—
- “(a) the income and energy needs of households, including whether the householders have SuperGold cards; and
 - “(b) the cost-effectiveness of expenditure from the Household Fund in relation to the purpose of the Household Fund; and
 - “(c) any other matters that the Authority considers relevant.
- “(7) The Energy Efficiency and Conservation Authority must manage and administer the Household Fund in accordance with the criteria determined by the Minister.
- “**181** **Gazetting of targets**
- “(1) The Minister responsible for the administration of this Act must set a target.
- “(2) The Minister responsible for the administration of the Act may set a target, or amend or revoke an existing target, at any time.
- “(3) As soon as practicable after setting, amending, or revoking a target under this section, the Minister must—
- “(a) publicly notify the target or revocation of the target in the *Gazette*; and
 - “(b) make the target or revocation of the target publicly accessible via the Internet site of the department of the chief executive responsible for the administration of this Act.

- “(4) To avoid doubt, the *Gazette* notice in **subsection (1)** may not be treated as a regulation for the purposes of the Regulations (Disallowance) Act 1989 or the Acts and Regulations Publications Act 1989.
- “(5) To avoid doubt, any number of targets may be set using the process under this section.”
-

Explanatory note

This Supplementary Order Paper amends the Climate Change (Emissions Trading and Renewable Preference) Bill.
