

# Timeframe to defer obligations for animals-farmers under the NZ ETS

## Key Messages

1. Obligations under the New Zealand Emissions Trading Scheme (NZ ETS) require animals-farmers to register and monitor emissions as prescribed by the Climate Change Response Act 2002 (CCRA) commencing from 1 January 2024. If these obligations are not deferred via an Order in Council (OiC) prior to 1 January 2024, up to 50,000 farmers will be required to enter into the NZ ETS as participants and begin monitoring their emissions. Surrender obligations will commence for emissions in the following year.
2. There is not a system nor secondary legislation in place to support farmers to meet their obligations. The Environmental Protection Authority (EPA) does not currently have a work programme in place to support participants' registration and reporting obligations.
3. Officials recommended progressing an OiC to defer obligations prior to the election with consultation as required by s 2B(6) of the CCRA [BRF-3202 refers]. Officials note that if this option were to be preferred, it would have to be progressed with extreme urgency as there is now limited time to seek Cabinet approval to consult prior to the election.
4. There is very limited time post-election to undertake consultation and make an OiC prior to obligations for animals-farmers commencing on 1 January 2024.
5. Officials have provided an outline of timeframes to progress the OiC post-election in Tables 1 and 2.

### 6. Out of Scope

[Redacted content]

## Purpose

8. On 1 May 2023, you met with officials and signalled interest in exploring additional options to progress an Order in Council (OiC) to defer animals-farmer obligations [BRF-3202 refers]. This included a desire to progress an OiC tied to an announcement of an agricultural emissions mechanism if decisions were taken prior to the election. Two of the options presented provided timeframes to progress the OiC coupled with an announcement on an agricultural emissions mechanism prior to the election.
9. A third option was also requested and set out a timeframe for progressing the OiC post-election without consultation in the instance where final policy decisions were not taken.
10. Officials seek confirmation on how to proceed with progressing an OiC to defer animals farmer obligations in the New Zealand Emissions Trading Scheme (NZ ETS).

## Context

11. Animals-farmer obligations under the NZ ETS will begin on 1 January 2024 with surrender obligations commencing one year later (s 2A(5D) and s 219 of the Climate Change Response Act 2002 (CCRA)) unless the date is deferred by an OiC (or the relevant sections are repealed). Given the limited sitting days remaining in 2023, we do not believe the relevant provisions in the CCRA will be able to be repealed in time and therefore must be deferred.
12. Section 65 of the CCRA requires that participants must report to the Environmental Protection Authority (EPA) on activities carried out. This means that from 1 January 2024, participants will need to register and monitor their emissions with annual emissions returns for that period due in 2025. This means that any activity carried out in 2024 would trigger reporting requirements. It should be noted that there is not a system or legislation (primary and secondary) currently in place to support farmers to meet this requirement.
13. There are significant risks in triggering these obligations, including:
  - a. it is estimated to incorporate up to 50,000 participants as the definition of an animals-farmer is not aligned to the thresholds and sub-sectors for participation that was proposed in the alternative agricultural emissions pricing system (e.g. NZ ETS obligations also capture poultry, horses and pigs); and
  - b. regulations would need to be developed that prescribe the information to be collected by animals-farmer participants, and the methods for calculating emissions;
  - c. the Environmental Protection Authority (EPA) has no existing capability to implement NZ ETS emission reporting for 50,000 farmers; and
  - d. uncertainty for the agricultural sector as to their obligations and how their emissions will be priced.

## Appendix 1- Pre-election with consultation

Note: the below timeline will likely require shortening of consultation on draft Cabinet papers (i.e. agency and Ministerial consultation).

July 2023	Complete draft consultation material and Cabinet paper, undertake agency consultation.  Ministerial consultation on Cabinet paper and consultation material
August 2023	Cabinet approval of consultation.  Consultation (2-3 weeks)
September 2023	Analyse results of consultation.  Prepare policy decision Cabinet paper and undertake agency consultation.  Ministerial consultation on Cabinet paper  Cabinet consideration of policy decision and authorisation to issue drafting instructions. Note: it may be difficult to obtain a place on the Cabinet agenda immediately prior to the election.
October- November 2023	<b>Election 14 October</b>  Draft OiC  Prepare Cabinet paper for submission of OiC and undertake agency consultation.  Ministerial consultation on draft Cabinet paper for submission of OiC.
Early Dec 2023	Cabinet approval to submit the OiC to Executive Council for Governor-General approval.  OiC is approved and gazetted. 28-day period would need to be waived so the OiC can enter into force prior to 1 January.
1 Jan 2024	Reporting obligations commence unless deferred.
1 Jan 2025	Surrender obligations commence (at farm level for animals' activities unless deferred).

**Appendix 2: Post-election without consultation**

September 2023	Prepare policy decision Cabinet paper on decision to defer and deferral date.
October 2023	<p><b>Election 14 October</b></p> <p>Ministerial consultation on Cabinet paper.</p> <p>Cabinet approval of policy decision and authorisation to issue drafting instructions.</p>
November 2023	<p>OiC is drafted.</p> <p>Prepare Cabinet paper for submission of OiC and undertake agency consultation.</p> <p>Ministerial consultation on Cabinet paper for submission of OiC.</p>
Early December 2023	<p>Cabinet approval to submit the OiC to Executive Council for Governor-General approval.</p> <p>OiC is approved and gazetted. 28-day period would need to be waived so the OiC can enter into force prior to 1 January.</p>
1 January 2024	Reporting obligations commence unless deferred.

**Appendix 3: Post-election with consultation**

September 2023	Prepare Cabinet paper and consultation material for approval to consult.
October 2023	<b>Election 14 October</b> Ministerial consultation on Cabinet paper. Cabinet approval to consult.
November 2023	Consultation Prepare Cabinet paper for policy decision.
December 2023	Ministerial consultation on Cabinet paper. Cabinet approval of policy decision and authorisation to issue drafting instructions.
1 January 2024	Reporting obligations commence.
January 2024	OiC is drafted. Prepare Cabinet paper for submission of OiC and undertake agency consultation. Ministerial consultation on Cabinet paper for submission of OiC.
February 2024	Cabinet approval to submit the OiC to Executive Council for Governor-General approval. OiC is approved and gazetted. 28-day period would need to be waived so the OiC can enter into force on publication.