

CLASSIFICATION

Office of the Minister of Agriculture

Office of the Minister of Climate Change

Cabinet Legislation Committee

Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill: Approval for Introduction

Proposal

1. This paper seeks approval for the introduction of the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill to the House of Representatives (see Appendix 1).

Policy

2. On 2 April 2024, Cabinet agreed to amend the Climate Change Response Act 2002 (CCRA) to repeal all New Zealand Emissions Trading Scheme (NZ ETS) obligations for agricultural activities [CAB-24-MIN-0109.02 refers].
3. A Bill is required to amend the CCRA prior to NZ ETS surrender obligations for these activities beginning on 1 January 2025.
4. This proposal supports the Government's coalition agreements and National Party's manifesto commitment to keep agriculture out of the NZ ETS; and aligns with Action 12 'Finalise policy to keep agriculture out of the ETS' of the Coalition Government's Action Plan for New Zealand.

Impact analysis

5. A Regulatory Impact Statement was prepared in accordance with the necessary requirements, and was submitted to Cabinet along with the Cabinet paper seeking approval for final policy decisions on the Climate Change Response Amendment Bill [CAB-24-MIN-0109.02 refers]. This Regulatory Impact Statement achieved a 'partially meets' from the Regulatory Impact Assessment Panel.

Compliance

6. This Bill complies with:
 - I. the principles of the Treaty of Waitangi;
 - II. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

- III. the disclosure statement requirements. A disclosure statement has been prepared and is attached to this paper (see Appendix 2)
- IV. the principles and guidelines set out in the Privacy Act 2020
- V. relevant international standards and obligations and;
- VI. the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory.

Consultation

- 7. The following agencies were consulted on this paper - The Treasury, Te Puni Kōkiri, Te Arawhiti, and the Environmental Protection Authority (EPA), Ministry of Foreign Affairs and Trade, Ministry of Transport, Public Service Commission, Ministry of Business, Innovation and Employment, Department of Conservation. The Department of the Prime Minister and Cabinet was informed.
- 8. We have not consulted publicly on amending the CCRA to 'keep agriculture out of the Emissions Trading Scheme' although we have clearly signalled our intention to do this. There will be opportunity to hear from the public as part of the Select Committee process.
- 9. Whilst specific consultation has not been undertaken for this Bill, previous consultation on related policy proposals is relevant and has been considered. Last year, the Government consulted on deferring NZ ETS reporting obligations for animal farmers with 1,225 submissions received. Analysis of submissions identified that most agricultural sector submitters continued to support an agricultural emissions pricing system outside of the NZ ETS as they considered it would provide greater opportunities to develop a more effective solution.
- 10. Māori submitters identified there would be increased administrative costs as a result of animal farmers' obligations under the NZ ETS. The majority of submissions received who opposed the deferral expressed concern about delays to pricing agricultural emissions and the associated impact that would have on agricultural emissions reductions.

Binding on the Crown

- 11. This Bill will bind the Crown.

Creating new agencies or amending law relating to existing agencies.

- 12. This Bill does not create new agencies.
- 13. Fertiliser and animals processors are currently NZ ETS participants reporting their emissions in accordance with the CCRA. This Bill will require the EPA to update their operational systems and to notify fertiliser and animals

processors that they have been removed from the NZ ETS participant register. This will not affect those participants remaining on the register for non-agricultural activities.

14. Note that fertiliser and animals processors will no longer be NZ ETS participants immediately following royal assent. The Bill enables the EPA to record in their systems a deregistration date for these processors of 1 December 2023. This is so the EPA's systems do not automatically send these processors notices that they need to submit emissions returns, as these will no longer be required due to them no longer being NZ ETS participants.

9(2)(h)

Note: The 1 December 2023 date is an error. In the Bill, the date the participant register may record a date is 31 December 2024.

Allocation of decision-making powers

15. This draft legislation does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

Associated regulations

16. This Bill will not require subsequent regulations to bring the Bill into operation.

Other instruments

17. This Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

18. This Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

19. This Bill will come into force the day after Royal assent.

Parliamentary stages

20. To align with Government priorities, the Bill should be introduced on 17 June 2024 for a first reading in the House in the sitting week of 25 June 2024.
21. The Bill should be referred to the Environment select committee for a report back date in November to enable for the Bill to proceed through the House and obtain Royal assent before 31 December 2024.

Note: this Bill was later referred to the Primary Production Committee

Proactive Release

22. The Ministers proposes to release the paper proactively within 30 business days on the Ministry for the Environment website.

Next Steps

23. We propose to announce this amendment to the CCRA to 'keep agriculture out of the ETS' at Fieldays.
24. This will be followed by the introduction of the Bill on 17 June, with a first reading in Parliament between 25 and 27 June.

Recommendation

25. We recommend that the Cabinet Legislation Committee:
 - 1 **note** the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill holds a category 2 priority on the 2024 Legislation Programme and must be passed this year to keep agriculture out of the ETS;
 - 2 **note** the Bill will amend the Climate Change Response Act 2002 to repeal all New Zealand Emissions Trading Scheme obligations for agricultural activities;
 - 3 **approve** the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
 - 4 **agree** the Bill be introduced on 17 June 2024;
 - 5 **agree** the government propose that the Bill be:
 - 5.1 referred to the Environment committee for consideration;
Note: this Bill was later referred to the Primary Production Committee
 - 5.2 enacted by 31 December 2024.

Authorised for lodgement

Hon Todd McClay

Minister of Agriculture

Hon Simon Watts

Minister of Climate Change

Departmental Disclosure Statement

Appendix 1 withheld under section 18(d) as it is already publicly available

**Climate Change Response (Emissions Trading Scheme
Agricultural Obligations) Amendment Bill**

Government Bill

Appendix 2 withheld under section 18(d) as it is already publicly available

