

# **Climate Change Response (Zero Carbon) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

#### **What the Bill seeks to achieve and why**

The purpose of the Climate Change Response (Zero Carbon) Amendment Bill (the **Bill**) is to provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels.

The overarching purpose represents a balance of the guiding principles agreed by Cabinet to frame the development of climate change policy: leadership at home and abroad; a productive, sustainable, and climate-resilient economy; and a just and inclusive society.

The Bill sets out a durable framework, and stable and enduring institutional arrangements, for climate change action that will help keep New Zealand on track to mitigate and adapt to climate change. It also contains mechanisms for increasing transparency of decisions relating to climate change. This includes processes, time frames, reporting obligations, monitoring, and considerations to take into account.

The Bill seeks to strike a balance between flexibility and prescription in New Zealand's long-term transition, as well as building in considerations for how impacts are distributed.

#### **How this Bill will provide the framework for New Zealand to develop and implement clear and stable climate change policies**

The Bill will achieve its purpose by—

- establishing a new independent Climate Change Commission (the **Commission**) to provide independent expert advice and monitoring, to help keep successive governments on track to the long-term mitigation and adaptation goals:
- setting a new greenhouse gas emissions reduction target to—
  - reduce gross emissions of biogenic methane within the range of 24% to 47% below 2017 levels by 2050, with an interim requirement to reduce emissions to 10% below 2017 levels by 2030:
  - reduce net emissions of all other greenhouse gases to zero by 2050:
- establishing a series of emissions budgets to act as stepping stones towards the 2050 target:
- establishing a range of climate change adaptation measures to make sure New Zealand understands the risks we face, and has a plan to address them.

### Specific details of Bill's elements

*Climate Change Commission: designed to provide independent expert advice and hold the Government to account*

The Climate Change Commission will provide ongoing, independent expert advice to the Government on mitigating emissions and adapting to the effects of climate change. The Commission will monitor successive governments' progress toward emissions-reduction and adaptation goals.

The Bill sets out the Commission's functions in relation to the target, emissions budgets, emissions-reduction plans, and adaptation measures established by the Bill. It provides for the Minister for Climate Change (the **Minister**) to request other advice from the Commission. The Bill refers to the Commission's function in recommending unit supply settings for the New Zealand Emissions Trading Scheme, which will be brought into operation by proposed legislative changes to improve the scheme.

*2050 emissions reduction target: to signal an economy-wide transition*

Setting a greenhouse gas emissions reduction target in primary legislation will provide a clear signal on New Zealand's long-term emissions reduction goals. It will give New Zealanders confidence that climate change policies and the long-term emissions reduction pathway will remain stable and predictable and continue delivering prosperity.

The Bill allows the target to be revised, but only in specific circumstances. This includes requiring that the Commission be satisfied certain conditions are met before recommending a change. This is to ensure the target's long-term durability. The Bill does not prescribe what the Government's response to a target recommendation would be. If the Commission recommends amending the target, this would involve a new amendment Bill being introduced to the House of Representatives, following adequate policy development and consultation.

*Emissions budgets: stepping stones to low-emissions New Zealand*

Emissions budgets can be understood as interim targets or “stepping stones” to New Zealand’s emissions reduction target. A system of emissions budgets will help to manage the transition to a low-emissions New Zealand and avoid any abrupt changes in policy. They will also serve as a valuable tool for tracking progress and determining whether New Zealand is on track to meet the emissions reduction target established under the Bill. In doing so, they will also create accountability across successive governments.

Emissions budgets will signal the reductions required in the short to medium term and will be supported by a plan that includes strategies and policies to achieve the reductions required. In this way, emissions budgets will operate as a market signal, providing households, businesses, and industries with greater predictability and driving investment in low-emissions technology and innovation.

*Adaptation: measures to increase New Zealand’s resilience to changing climate*

Understanding the risks, and what action is being taken to address them, will help New Zealand to co-ordinate efforts to adapt appropriately. This Bill will provide a framework for enhanced action on adaptation. This will consist of a national climate change risk assessment, a national adaptation plan, regular progress reporting on the implementation of the national adaptation plan, and an adaptation information-gathering power.

The national climate change risk assessment will be regularly prepared to improve understanding and prioritisation of the climate change risks that New Zealand faces. The national adaptation plan will outline the Government’s planned approach to addressing risks highlighted in the national climate change risk assessment. The Commission will regularly monitor and report on the implementation and effectiveness of the plan to ensure accountability.

An adaptation information-gathering power will enable the Minister to require central government organisations, local government organisations, and “lifeline utility providers” to provide climate change adaptation information. The information will include the organisations’ assessments of the risks climate change poses to their functions, the organisations’ proposals and policies for adapting to climate change, and their progress towards implementing the proposals and policies.

**Why possible alternatives were ruled out**

Primary legislation was considered necessary to ensure that New Zealand’s commitments to mitigating climate change and adapting to a changing climate were appropriately prioritised. Non-regulatory options were considered but discarded.

*Commission*

An independent Crown entity is considered to be the most appropriate body to achieve the political accountability required for mitigating and adapting to climate

change. An Officer of Parliament and an autonomous Crown entity were considered but would be limited in providing for this.

Further consideration was not given to options where—

- the membership of the Commission consisted of stakeholder representatives, as this was considered to jeopardise the ability of the Commission to provide independent advice;
- the consideration of adaptation was devolved to a subcommittee, as this was considered to pose a risk that adaptation would be treated as a secondary consideration to mitigation action;
- the collective expertise required of the Commission was prescribed in more detail, as this was considered to allow insufficient flexibility for the considerations of the Commission to evolve over time;
- the functions proposed for the Commission are performed as a statutory independent function in a government department, as this would not provide for an independent body.

### *Target*

Extensive consultation on a 2050 domestic target took place in 2018, during which more than 15,000 New Zealanders and organisations had their say. The 2050 target in this Bill takes into account the results of the consultation (almost all supported a 2050 target), together with underpinning economic analysis, the latest climate science, and New Zealand's greenhouse gas emissions profile. In particular, the latest science in the Intergovernmental Panel on Climate Change (IPCC) special report on 1.5° Celsius concluded that in the central range of global scenarios consistent with staying within 1.5° Celsius of warming, as set out under the Paris Agreement, with limited or no overshoot,—

- global emissions of carbon dioxide need to reduce to net zero around 2050, and below zero thereafter; and
- global emissions of agricultural methane need to reduce by 24% to 47% from 2010 levels by 2050.

To be consistent with this, a decision was made to include a target that distinguishes between biogenic methane (a short-lived gas) and all other greenhouse gases (such as carbon dioxide and nitrous oxide), rather than a single target for all greenhouse gases. The option of a separate target for the agriculture or land sector was considered to be inconsistent with the IPCC conclusions, which are based on the different impacts of different greenhouse gases rather than their sources.

### *Emissions budgets*

Different options were considered for the length of an emissions budget period, whether, and in what circumstances, budgets could be revised, whether banking and borrowing across budget periods should be allowed, and the role of the Commission in relation to emissions budgets.

The model set out in the Bill was chosen because it will be enduring. It provides a stable policy environment that sends a strong signal to households, businesses, and industry, while remaining flexible and responsive to changing circumstances. It will allow governments to adhere to the optimal transition pathway and manage any adverse impacts of the transition to a low-emissions economy. The Commission's role will enhance the credibility, transparency, and accountability of the emissions budgeting system.

### *Adaptation*

Including adaptation provisions in the Bill provides New Zealand with a clear, planned approach to climate change adaptation based on the best available evidence, information, and assessment of risks. It will enable actions to be planned, prioritised, and regularly undertaken, by clearly allocating responsibilities across various actors. Situating adaptation measures in the Bill alongside those for mitigation is designed to address their shared intergenerational implications. It will provide an integrated and holistic approach to the problem and ensure that policies and long-term decision making are appropriately co-ordinated.

Instead of producing a national adaptation plan, national direction could be developed under the Resource Management Act 1991 (the **RMA**) in the form of a national policy statement (an **NPS**), but the national adaptation plan will need to go beyond what can be covered under the RMA. Note that the Bill does not preclude an NPS, which could still be developed to support the implementation of a broader national adaptation plan.

In terms of who prepares the national climate change risk assessment, several potential responsible bodies were considered, including other central and local government agencies. However, the Commission is best placed to carry out this function, as it is important that the national climate change risk assessment is understood to be based on the best available evidence and independent of the politics of the day.

The national adaptation plan aims to provide a strategic government response to the risks identified and prioritised in the national climate change risk assessment. Allocating responsibility for the plan to other organisations was considered, but only central government has the necessary authority and levers to undertake this function. Therefore, it is appropriate that the plan is prepared by the Minister.

There is a strong argument for a 6-yearly cycle to line up with relevant investment cycle timings, including local government long-term planning time frames and land transport investment planning, both of which happen in 3-yearly cycles. A 5-yearly cycle was considered to align with the communication of nationally determined contributions (**NDCs**) under the Paris Agreement, but NDCs are focused on mitigation rather than on adaptation.

### *Adaptation information-gathering power*

Requiring all organisations, companies, and firms to report on adaptation risks and efforts under the Bill was considered to be cumbersome at this time. Proposals for cli-

mate-related financial disclosures have also been ruled out at this time, as those sorts of reporting requirements for the private sector are being progressed outside of the Bill.

This enables future governments to consider extending reporting requirements if they choose to do so.

Voluntary, informal reporting was considered and remains a viable option alongside the Bill's proposal for mandatory provision of information. However, even voluntary information gathering is likely to be more successful if the Minister has the ability to require the provision of information.

### **Further information regarding the Bill to assist understanding**

#### *Limited use of offshore mitigation and the context of nationally determined contributions*

The Bill aims to support New Zealand's domestic transition to a low-emissions economy. The Bill allows the Government to purchase reductions sourced from overseas to meet emissions budgets, but only as a last resort and not as a first choice. The Commission will set a limit on the number of reductions sourced from overseas that can be purchased, and include reasons for this limit. This is designed to place primary reliance on reducing emissions at home, while retaining flexibility to manage the uncertainty of making long-term projections.

The Bill does not impact New Zealand's commitment to communicating and achieving nationally determined contributions that contain absolute economy-wide reductions at the maximum possible level of ambition, and that demonstrate a progression in ambition over previous efforts. Limiting the use of reductions sourced from overseas to meet the 2050 target does not preclude New Zealand's ability to count reductions sourced from overseas towards achievement of its successive nationally determined contributions, if required, which has previously been agreed by Cabinet (CAB-18-MIN-0248 refers).

#### *Interaction with the New Zealand Emissions Trading Scheme*

The New Zealand Emissions Trading Scheme (the **NZ ETS**) will be a key tool in meeting emissions budgets and achieving the 2050 target. A number of improvements to the NZ ETS will be progressed through the Climate Change Response Amendment Bill, including price-control measures. As noted by the Cabinet Environment, Energy, and Climate Committee, any release of units following the activation of those price-control measures will not be taken from an emissions budget.

#### *Statutory time frames*

Timely and transparent implementation of the Bill will be essential in order to provide certainty and allow businesses, households, and individuals to start taking action to reduce their emissions and understand and address the risks of climate change. It will also establish much-needed market signals for NZ ETS participants on the emissions reduction pathway for New Zealand.

The statutory time frames will apply to the provision of advice and requirements to respond once the framework is fully operational.

### Departmental disclosure statement

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=136>

### Regulatory impact assessment

The Ministry for the Environment produced a regulatory impact assessment on 28 January 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <https://www.mfe.govt.nz/sites/default/files/media/Climate%20Change/regulatory-impact-statement-zero-carbon-bill.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### Clause by clause analysis

*Clause 1* states the Title of the Bill.

*Clause 2* states that the Bill commences on the day after the date on which it receives the Royal assent.

*Clause 3* states that the Bill amends the Climate Change Response Act 2002 (the **principal Act**).

## Part 1

### Climate Change Commission, emission reduction, and adaptation

*Clause 4* amends section 3 of the principal Act to add another purpose to that Act. The additional purpose is to provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels.

*Clause 5* amends section 3A of the principal Act to add actions required by the Minister for Climate Change (the **Minister**) in order to recognise and respect the Crown's responsibility to give effect to the principles of the Treaty of Waitangi.

*Clause 6* amends section 4 of the principal Act to define terms used in the new sections inserted into the principal Act by the Bill.

*Clause 7* inserts *new section 4A* into the principal Act. *New section 4A* gives effect to the transitional, savings, and related provisions contained in *new Schedule 1AA* (which is in *Schedule 1* of the Bill).

*Clause 8* inserts *new Parts 1A to 1C* into the principal Act.

*New Part 1A* establishes the Climate Change Commission and provides for its membership, purposes, functions, duties, and powers.

*New section 5A* establishes the Climate Change Commission (the **Commission**).

*New section 5B* states the purposes of the Commission.

*New section 5C* states that the Commission is a Crown entity for the purposes of the Crown Entities Act 2004 and applies that Act to the Commission.

*New section 5D* states that the Commission must have 7 members: a Chairperson, a Deputy Chairperson, and 5 other members.

*New section 5E* sets out the process by which a person is appointed as a member of the Commission. First, the nominating committee must nominate the person for appointment. Then, the Minister must decide whether to recommend to the Governor-General that the person be appointed, after having regard to the matters set out in *new section 5H* and consulting with representatives of the other political parties in Parliament.

The Chairperson and Deputy Chairperson are appointed on the recommendation of the Minister to the Governor-General.

*New section 5F* requires the Minister to establish the nominating committee and provides for membership of the nominating committee.

*New section 5G* sets out the steps that the nominating committee must take before nominating a person for appointment to the Commission.

*New section 5H* sets out the matters to which the Minister must have regard before recommending the appointment of a member of the Commission.

*New section 5I* requires the Minister to recommend terms of appointment of members of the Commission that ensure that no more than 2 members have their terms of office expiring in any year.

*New section 5J* sets out the Commission's functions.

*New section 5K* allows the Minister to request that the Commission prepare reports to the Government on matters related to reducing emissions of greenhouse gases and adapting to the effects of climate change.

*New section 5L* sets out the matters that the Commission must consider in performing its functions and duties and exercising its powers.

*New section 5M* allows the Commission to undertake any type of consultation that it considers necessary for the performance of its functions and duties.

*New section 5N* requires the Commission to act independently in performing its functions and duties and exercising its powers. However, the Commission has 2 functions

for which it must take Government policy into account, if directed to do so by the Minister.

*New Part 1B* sets the emissions reduction target to be achieved by 2050 (the **2050 target**) and provides for the setting and monitoring of emissions budgets.

*New section 5O* sets the 2050 target. The target requires that by the calendar year beginning on 1 January 2050, net emissions of greenhouse gases, other than biogenic methane, are zero and gross emissions of biogenic methane are at least 24% to 47% lower than 2017 levels. As an interim step, the 2050 target requires that by the calendar year beginning on 1 January 2030, gross emissions of biogenic methane are 10% lower than 2017 levels.

*New section 5P* requires the Commission to review the 2050 target when it prepares advice on setting an emissions budget for a period beginning on or after 2036. The Commission must also review the 2050 target at any other time that the Minister requests a review.

*New section 5Q* allows the Commission to recommend a change to the 2050 target as a result of a review. However, the Commission may recommend a change to the 2050 target only if the Commission is satisfied that there has been a significant change in a specified factor that justifies the change to the target.

*New section 5R* requires the Minister to respond to the Commission, within 12 months, if the Commission recommends changing the 2050 target.

*New section 5S* sets out certain definitions that apply in *new subpart 2*.

*New section 5T* states the purpose of *new subparts 2 to 4* and of the setting of emissions budgets.

*New section 5U* requires the Minister to set an emissions budget for each emissions budget period, states that there must be 3 consecutive budgets in place at any one time, 1 of which is current and the other 2 prospective, and prescribes the date by which each budget must be set and notified. The section also imposes an obligation on the Minister to ensure compliance with each emissions budget.

*New section 5V* describes the required contents of emissions budgets. An emissions budget must apply to all greenhouse gases (including biogenic methane) and must set out the quantity of emissions permitted in the relevant period.

*New section 5W* requires emissions budgets to be met, as far as possible, through domestic emissions reductions and domestic removals. In setting an emissions budget, the Minister must have particular regard to how the emissions budget and the 2050 target may realistically be met, bearing in mind the amount of the reduction and removal of greenhouse gases required to meet the emissions budget and the 2050 target, what key opportunities exist for reductions and removals in New Zealand, and the risks and uncertainties that apply to emissions reductions and removals.

*New section 5X* requires the Commission to advise the Minister on certain matters relevant to setting emissions budgets, having regard to the matters listed in *new sec-*

*tion 5Z.* The section sets the time limits for the advice to be given to the Minister and requires the advice to be made public and presented to the House of Representatives.

*New section 5Y* requires the Minister, in setting a budget, to respond to the Commission on the advice tendered under *new section 5X*. The Minister must present that response to the House of Representatives with a proposed emissions budget for the relevant period, and must explain any departure from the advice of the Commission.

*New section 5Z* sets out the matters to which the Commission, in advising the Minister, and the Minister, in determining an emissions budget, must have regard or, in the case of how a budget is to be met, have particular regard.

*New section 5ZA* specifies that after the Minister has finalised an emissions budget, but before it is notified, the Minister must consult a representative of each political party represented in the House of Representatives, then notify the emissions budget in the *Gazette*, present it to the House, and publish it on an Internet site directed by the Minister. A *Gazette* notice published under this section is not a legislative instrument and is not disallowable for the purposes of the Legislation Act 2012.

*New section 5ZB* makes provision for the revision of emissions budgets.

*New section 5ZC* sets out the details of when an excess reduction of emissions may be carried forward (**banking**) or, if an emissions budget has not been met, how that deficit may be carried back against a previous budget (**borrowing**). Banking or borrowing is at the discretion of the Minister after receiving advice from the Commission.

*New section 5ZD* requires the Minister to prepare and publish a plan with policies and strategies for meeting emissions budgets.

*New section 5ZE* requires the Commission to advise the Minister, before an emissions budget period begins, on the policies required for meeting the relevant emissions budget. The Commission is required to consult widely in preparing that advice, and the advice must be made public. The Minister's written response to the advice of the Commission must be presented to the House of Representatives.

*New section 5ZF* provides for the Minister to finalise and publish an emissions reduction plan for an emissions budget period.

*New sections 5ZG to 5ZI* require the Commission to monitor progress towards meeting emissions budgets and report annually on the results of its monitoring. At the end of an emissions budget period, the Commission must evaluate the progress made in the relevant period, recommend any banking or borrowing that would be appropriate, and assess the offshore mitigation necessary to meet the relevant emissions budget. The monitoring reports required under *new sections 5ZH and 5ZI* must be made publicly available and presented to the House of Representatives.

*New section 5ZJ* excludes any court remedies for breach of the 2050 target or an emissions budget other than a court declaration. The only effect of a court declaration is that the Minister must then alert the House to the court declaration and provide a Government response.

*New section 5ZK* allows the 2050 target and emissions budgets to influence broader Government decision making where they are relevant. If consistent with the other legal requirements applying to a decision, the decision maker *may* take the 2050 target and an emissions budget into account. However, the section also makes it clear that there is no legal requirement to do so (so that they are permissive, but not mandatory, considerations for decision makers).

*New section 5ZL* enables the Minister to issue guidance for departments on how to take the 2050 target and emissions budgets into account in decision making. This guidance will provide practical assistance for decision makers who take the 2050 target and emissions budgets into account.

*New Part 1C* provides for the preparation of national climate change risk assessments, national adaptation plans, and progress reports.

*New section 5ZM* requires a national climate change risk assessment to assess the risks to New Zealand arising from the effects of climate change and to identify the most significant risks. The Minister must prepare the first national climate change risk assessment in accordance with *new section 5ZP*. The Commission must prepare all subsequent national climate change risk assessments in accordance with *new sections 5ZN and 5ZO*.

*New section 5ZN* requires the Commission to prepare a national climate change risk assessment at least every 6 years. The section also sets out the matters that the Commission must and may take into account in preparing the assessment.

*New section 5ZO*—

- requires the Commission to provide the Minister with a copy of a national climate change risk assessment that it prepares; and
- requires the Commission to make the assessment publicly available once it has been provided to the Minister; and
- requires the Minister to present a copy of the assessment to the House of Representatives.

*New section 5ZP* requires the Minister to prepare the first national climate change risk assessment, present the assessment to the House of Representatives, and make the assessment publicly available. The Minister must complete these actions within 1 year after *new Part 1C* comes into force.

*New section 5ZQ* requires the Minister to prepare a national adaptation plan in response to each national climate change risk assessment. The national adaptation plan must set out, among other things, the Government's objectives for adapting to the effects of climate change and how the Government proposes to meet those objectives. In preparing the plan, the Minister must take into account specified matters and must undertake public consultation.

*New section 5ZR* requires the Minister to present the national adaptation plan to the House of Representatives and make the plan publicly available. The Minister must

complete these actions within 2 years after the national climate change risk assessment to which the plan responds is made publicly available.

*New section 5ZS* requires the Commission to provide to the Minister 2-yearly progress reports that evaluate the implementation of the adaptation plan.

*New section 5ZT*—

- requires the Minister to present a copy of a progress report to the House of Representatives; and
- requires the Commission to make a progress report publicly available once it has been provided to the Minister.

*New section 5ZU* requires the Minister to publicly respond to a progress report within 6 months after receiving it.

*New section 5ZV* allows the Minister to request that certain organisations provide information on, among other things, the effects of climate change in relation to the organisation and how the organisation proposes to adapt to those effects.

*New section 5ZW* allows for regulations to be made that specify matters relating to information requests made under *new section 5ZV*.

*Clause 9* inserts *new Schedule 1AA* into the principal Act. *New Schedule 1AA* is set out in *Schedule 1* of the Bill and contains transitional, savings, and related provisions.

## **Part 2**

### **Consequential amendments**

*Clause 10* amends section 99 of the principal Act. The amendments—

- require the Commission to keep information confidential; and
- allow otherwise confidential information to be disclosed to the Commission.

*Clause 11* amends section 224 of the principal Act to clarify that the targets referred to in that section do not include targets for greenhouse gas emissions.

*Clause 12* repeals section 225 of the principal Act. That section allows for regulations to be made that set targets, and is no longer needed now that the 2050 target will be set in the Act.

*Clause 13* gives effect to the consequential amendments to other enactments contained in *Schedule 2* of the Bill.

*Clause 14* revokes the Climate Change Response (2050 Emissions Target) Notice 2011.

*Hon James Shaw*

# **Climate Change Response (Zero Carbon) Amendment Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
 This Act is the Climate Change Response (Zero Carbon) Amendment Act **2019**.
- 2 Commencement** 5  
 This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**  
 This Act amends the Climate Change Response Act 2002 (the **principal Act**).

**Part 1** 10

**Climate Change Commission, emission reduction, and adaptation**

- 4 Section 3 amended (Purpose)**  
 Before section 3(1)(a), insert:
  - (aa) provide a framework by which New Zealand can develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels; and 15
- 5 Section 3A amended (Treaty of Waitangi (Te Tiriti o Waitangi))**  
 After section 3A(a), insert:
  - (ab) with respect to **section 5G** (which relates to nominations for the Climate Change Commission), particular attention is required to seeking nominations from iwi and Māori representative organisations: 20
  - (ac) with respect to **section 5H** (which relates to appointments of members of the Commission), the Minister must, before recommending the appointment of a member to the Commission, have regard to the need for the Commission to have members who have technical and professional skills, experience, and expertise, and innovative approaches, relevant to the Treaty of Waitangi: 25
  - (ad) with respect to **sections 5ZD and 5ZF** (which require the Minister to prepare and publish an emissions reduction plan), the Minister must 30

include in a emissions reduction plan a strategy to recognise and mitigate the impacts on iwi and Māori of reducing emissions and must ensure that iwi and Māori have been adequately consulted on the plan:

- (ae) with respect to **section 5ZQ** (which requires the Minister to prepare a national adaptation plan), the Minister must, in preparing a plan, take into account the economic, social, health, environmental, ecological, and cultural effects of climate change on iwi and Māori:

## 6 Section 4 amended (Interpretation)

- (1) In section 4(1), insert in their appropriate alphabetical order:

**2050 target** means the emissions reduction target set in **section 50**

**biogenic methane** means all methane greenhouse gases produced from the agriculture and waste sectors (as those sectors are defined in the New Zealand Greenhouse Gas Inventory)

**Climate Change Commission** and **Commission** mean the Climate Change Commission established under **section 5A**

**emissions budget** means the quantity of emissions that will be permitted in each emissions budget period as a net amount of carbon dioxide equivalent

**emissions budget period** means a 5-year period for the years 2022 to 2050, as specified in **section 5U(3)** (except that the period 2022 to 2025 is a 4-year period)

**emissions reduction plan** means a plan for achieving an emissions budget prepared in accordance with **sections 5ZD to 5ZF**

**gross emissions** means New Zealand's total emissions from the agriculture, energy, industrial processes and product use, and waste sectors (as those sectors are defined in the New Zealand Greenhouse Gas Inventory)

**net emissions** means gross emissions combined with emissions and removals from land use, land use change, and the forestry sector

**New Zealand Greenhouse Gas Inventory** means the official annual estimate of all greenhouse gas emissions that have been generated in New Zealand since 1990 by human activities

**offshore mitigation** means emissions reductions and removals, or allowances from emissions trading schemes,—

- (a) that originate from outside New Zealand; and
- (b) that are expressed as a quantity of carbon dioxide equivalent; and
- (c) that are robustly accounted for to ensure that, among other things, double counting is avoided; and
- (d) that either—
- (i) represent an actual additional, measurable, and verifiable reduction of an amount of carbon dioxide equivalent; or

	(ii) are an emissions trading scheme allowance that triggers the reduction of carbon dioxide equivalent	
	<b>Paris Agreement</b> means the agreement adopted in Paris on 12 December 2015, and includes any amendments that are, or will become, binding on New Zealand from time to time	5
	<b>publicly available</b> , in relation to a document or information, means that the document or information is available at all reasonable times, free of charge, on an Internet site	
(2)	In section 4(1), replace the definition of <b>emissions</b> with:	
	<b>emissions</b> ,—	10
	(a) in relation to <b>Parts 1A and 1B</b> , means carbon dioxide equivalent emissions of greenhouse gases; but	
	(b) in relation to an activity listed in Schedule 3 or 4, means carbon dioxide equivalent emissions of greenhouse gases from the activity	
7	<b>New section 4A inserted (Transitional, savings, and related provisions)</b>	15
	After section 4, insert:	
4A	<b>Transitional, savings, and related provisions</b>	
	The transitional, savings, and related provisions set out in <b>Schedule 1AA</b> have effect according to their terms.	
8	<b>New Parts 1A to 1C inserted</b>	20
	After section 5, insert:	
	<b>Part 1A</b>	
	<b>Climate Change Commission</b>	
	Subpart 1—Establishment and appointments	
5A	<b>Climate Change Commission established</b>	25
	The Climate Change Commission is established.	
5B	<b>Purposes of Commission</b>	
	The purposes of the Commission are—	
	(a) to provide independent, expert advice to the Government on mitigating the effects of climate change (including through reducing emissions of greenhouse gases) and adapting to the effects of climate change; and	30
	(b) to monitor and review the Government’s progress towards its emissions reduction and adaptation goals.	

<b>5C</b>	<b>Commission is Crown entity</b>	
(1)	The Commission is a Crown entity for the purposes of the Crown Entities Act 2004.	
(2)	The Crown Entities Act 2004 applies to, and in relation to, the Commission except to the extent that this Act expressly provides otherwise.	5
<b>5D</b>	<b>Membership of Commission</b>	
(1)	The Commission consists of—	
(a)	a Chairperson:	
(b)	a Deputy Chairperson:	
(c)	5 other members.	10
(2)	The members of the Commission are a board for the purposes of the Crown Entities Act 2004.	
<b>5E</b>	<b>Process for appointment of members of Commission</b>	
(1)	The Minister may recommend to the Governor-General that a person be appointed a member of the Commission if—	15
(a)	the person has been nominated by the nominating committee; and	
(b)	the Minister has had regard to the matters in <b>section 5H</b> ; and	
(c)	the Minister has consulted representatives of all political parties in Parliament.	
(2)	The Minister may, at any time, recommend to the Governor-General that a current member of the Commission be appointed to the position of Chairperson or Deputy Chairperson of the Commission.	20
<b>5F</b>	<b>Establishment and membership of nominating committee</b>	
(1)	The Minister must establish a committee to nominate candidates to the Minister for appointment as members of the Commission.	25
(2)	The nominating committee must comprise—	
(a)	the Chairperson of the Commission; and	
(b)	4 or more other people who, in the opinion of the Minister, have the relevant skills or experience to identify suitably qualified candidates.	
(3)	If the position of Chairperson is vacant, the nominating committee must comprise 5 or more people who, in the opinion of the Minister, have the relevant skills or experience to identify suitably qualified candidates.	30
<b>5G</b>	<b>Role of nominating committee</b>	
(1)	On request of the Minister, the nominating committee must nominate 1 or more people who, in the opinion of the committee, are suitably qualified to be appointed to be members of the Commission.	35

(2)	Before nominating a person for appointment, the nominating committee must—	
(a)	publicly call for expressions of interest in being appointed; and	
(b)	consult any person or group who may have an interest in being a member of the Commission, including—	5
(i)	iwi and Māori representative organisations; and	
(ii)	any person or group that the Minister has identified as having an interest.	
<b>5H</b>	<b>Matters Minister must have regard to before recommending appointment of member of Commission</b>	10
(1)	Before recommending the appointment of a member of the Commission, the Minister must have regard to the need for the Commission to have members who, collectively, have—	
(a)	an understanding of climate change mitigation and adaptation, including the likely effects of any responses to climate change; and	15
(b)	experience working in or with local and central government; and	
(c)	knowledge of the process by which public and regulatory policy is formed and given effect to; and	
(d)	technical and professional skills, experience, and expertise in, and an understanding of innovative approaches relevant to,—	20
(i)	the environmental, ecological, social, economic, and distributional effects of climate change and climate change policy interventions; and	
(ii)	te Tiriti o Waitangi and te ao Māori (including tikanga Māori, te reo Māori, mātauranga Māori, and Māori economic activity); and	25
(iii)	a range of sectors and industries, at regional and local levels.	
(2)	In this section,—	
	<b>mātauranga Māori</b> means traditional Māori knowledge	
	<b>te ao Māori</b> means the Māori world	
	<b>te reo Māori</b> means the Māori language	30
	<b>tikanga Māori</b> means Māori custom and protocol.	
<b>5I</b>	<b>Members' term of office</b>	
	In recommending the appointment of a member of the Commission, the Minister must recommend a term of office that ensures that no more than 2 members have their terms of office expire in any calendar year.	35

Subpart 2—Commission’s functions, duties, and powers

**5J Commission’s functions**

The functions of the Commission are—

- (a) to review the 2050 target and, if necessary, recommend changes to the target (*see sections 5P and 5Q*): 5
- (b) to provide advice to the Minister to enable the preparation of emissions budgets (*see section 5X*):
- (c) to recommend any necessary amendments to emissions budgets (*see section 5ZB*):
- (d) to provide advice to the Minister about the quantity of emissions that may be banked or borrowed between 2 adjacent emissions budget periods (*see section 5ZC*): 10
- (e) to provide advice to the Minister to enable the preparation of an emissions reduction plan (*see section 5ZE*):
- (f) to monitor and report on progress towards meeting emissions budgets and the 2050 target (*see sections 5ZG to 5ZI*): 15
- (g) to prepare national climate change risk assessments (*see section 5ZN*):
- (h) to prepare reports on the implementation of the national adaptation plan (*see section 5ZS*):
- (i) to provide other reports requested by the Minister (*see section 5K*). 20

**5K Reports to Government**

- (1) The Minister may, at any time, request that the Commission prepare reports to the Government on matters related to reducing emissions of greenhouse gases and adapting to the effects of climate change.
- (2) Before making a request, the Minister must consult the Commission about the terms of reference for the requested report, which may, without limitation, specify— 25
  - (a) the scope of the report; and
  - (b) requirements concerning consultation; and
  - (c) matters relating to the Commission working jointly with other agencies (including overseas agencies) concerned with the subject matter of the report; and 30
  - (d) the date by which the Commission must submit its report to the Minister.
- (3) On receiving a request from the Minister, the Commission must,— 35
  - (a) as soon as practicable, make the terms of reference publicly available; and
  - (b) prepare a report in accordance with the terms of reference; and

(c)	provide the report to the Minister.	
(4)	The Commission must make the report publicly available after providing it to the Minister.	
(5)	The Minister must present a copy of the report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.	5
<b>5L</b>	<b>Matters Commission must consider</b>	
	In performing its functions and duties and exercising its powers under this Act, the Commission must consider, where relevant,—	
(a)	current available scientific knowledge; and	
(b)	technology that could be efficiently adopted and the likelihood of any advantages arising from early adoption of the technology; and	10
(c)	the likely economic effects; and	
(d)	social, cultural, environmental, and ecological circumstances, including differences between sectors and regions; and	
(e)	the distribution of benefits, costs, and risks between generations; and	15
(f)	responses to climate change taken or planned by parties to the Paris Agreement or to the Convention.	
<b>5M</b>	<b>Consultation</b>	
	The Commission may—	
(a)	publish and invite submissions on discussion papers and draft reports; and	20
(b)	undertake any other type of consultation that it considers necessary for the performance of its functions and duties under this Act.	
<b>5N</b>	<b>Commission must act independently</b>	
(1)	The Commission must act independently in performing its functions and duties and exercising its powers under this Act.	25
(2)	However, the Minister may direct the Commission to have regard to Government policy for the purposes of the Commission—	
(a)	recommending unit supply settings of the New Zealand emissions trading scheme; and	30
(b)	providing advice about New Zealand’s nationally determined contributions under the Paris Agreement (in a report requested under <b>section 5K</b> ).	

**Part 1B**

**Emission reduction**

Subpart 1—2050 target

**5O Target for 2050**

- (1) The target for emissions reduction (the **2050 target**) requires that— 5
- (a) net emissions of greenhouse gases in a calendar year, other than biogenic methane, are zero by the calendar year beginning on 1 January 2050 and for each subsequent calendar year; and
  - (b) gross emissions of biogenic methane in a calendar year— 10
    - (i) are 10% less than 2017 emissions by the calendar year beginning on 1 January 2030; and
    - (ii) are at least 24% to 47% less than 2017 emissions by the calendar year beginning on 1 January 2050 and for each subsequent calendar year.
- (2) In this section, **2017 emissions** means the gross emissions of biogenic methane for the calendar year beginning on 1 January 2017. 15

**5P Target reviews**

- (1) The Commission must review the 2050 target— 20
- (a) when preparing advice under **section 5X** on setting an emissions budget for an emissions budget period beginning on or after 2036; and
  - (b) at any other time the Minister requests a review.
- (2) The Commission must advise the Minister in writing of the outcome of any review, including any recommendations made in accordance with **section 5Q**,— 25
- (a) at the same time as giving advice to the Minister on setting an emissions budget (in the case of a review required under **subsection (1)(a)**); or
  - (b) as soon as practicable following completion of the review (in the case of a review requested by the Minister).
- (3) The Commission must make the advice publicly available after providing it to the Minister. 30
- (4) The Minister must present a copy of the advice to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.

**5Q Recommendations to amend 2050 target**

- (1) As a result of a review, the Commission may recommend a change to— 35
- (a) the time frame for achievement of the 2050 target (or part of the target);  
or

- (b) the levels of emission reductions required by the 2050 target (or part of the target).
- (2) The Commission may recommend a change to the 2050 target only if—
  - (a) significant change has occurred since the commencement of this section to 1 or more of the following, as they relate to climate change: 5
    - (i) global action:
    - (ii) scientific understanding of climate change:
    - (iii) New Zealand’s economic or fiscal circumstances:
    - (iv) New Zealand’s obligations under relevant international agreements: 10
    - (v) technological developments:
    - (vi) distributional impacts:
    - (vii) equity implications (including generational equity); and
  - (b) the Commission is satisfied that the significant change justifies the change to the target. 15

**5R Government response to target review recommendations**

- (1) If the Minister receives a 2050 target review recommendation under **section 5Q**, the Minister must advise the Commission in writing of the Government’s response to the recommendations within 12 months of receiving the recommendation. 20
- (2) The Minister must present a copy of the Government’s response to the target review recommendation to the House of Representatives as soon as practicable after it has been provided to the Commission.

Subpart 2—Setting emissions budgets

**5S Interpretation** 25

In this subpart and **subparts 3 and 4**, unless the context otherwise requires,—

**advice** includes recommendations

**banked** has the meaning given in **section 5ZC(1)**

**borrowed** has the meaning given in **section 5ZC(2)** 30

**net budget emissions** means gross emissions, offset by removals and offshore mitigation

**removals** means carbon dioxide equivalent greenhouse gases that are removed from the atmosphere.

<b>5T</b>	<b>Purpose of this subpart</b>	
	The purpose of this subpart is to require the Minister to set a series of emissions budgets—	
	(a) with a view to meeting and maintaining the 2050 target ( <i>see section 50</i> ); and	5
	(b) that provide greater predictability for all those affected, including households, businesses, and investors, by giving advance information on the emissions reductions and removals that will be required.	
<b>5U</b>	<b>Duty of Minister to set emissions budgets and ensure they are met</b>	
(1)	The Minister must set an emissions budget for each emissions budget period in accordance with this subpart.	10
(2)	From 31 December 2021, there must be 3 consecutive emissions budgets, 1 current and 2 prospective, in place at any one time.	
(3)	An emissions budget must be set and notified,—	
	(a) for the emissions budget period 2022 to 2025, by 31 December 2021:	15
	(b) for the emissions budget period 2026 to 2030, by 31 December 2021:	
	(c) for the emissions budget period 2031 to 2035, by 31 December 2021:	
	(d) for the emissions budget period 2036 to 2040, by 31 December 2025:	
	(e) for the emissions budget period 2041 to 2045, by 31 December 2030:	
	(f) for the emissions budget period 2046 to 2050, by 31 December 2035:	20
	(g) for any subsequent emissions budget period, by 31 December not less than 10 years before that emissions budget period commences.	
(4)	The Minister must ensure that the net budget emissions do not exceed the emissions budget for the relevant emissions budget period.	
<b>5V</b>	<b>Contents of emissions budgets</b>	25
(1)	Each emissions budget must state the total emissions that will be permitted for the relevant emissions budget period, expressed as a net quantity of carbon dioxide equivalent.	
(2)	Each emissions budget must include all greenhouse gases.	
<b>5W</b>	<b>How emissions budgets to be met</b>	30
(1)	Emissions budgets must be met, as far as possible, through domestic emissions reductions and domestic removals.	
(2)	In considering how an emissions budget may realistically be met, the Commission and the Minister must include consideration of the following:	
	(a) the amount by which each greenhouse gas must be reduced to meet the emissions budget and the 2050 target:	35

- (b) the amount by which greenhouse gas emissions must be removed to meet the emissions budget and the 2050 target:
- (c) identification of key opportunities for emissions reductions and removals in New Zealand, and the principal risks and uncertainties involved with emissions reductions and removals.

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### Subpart 3—Role of Commission in setting emissions budgets

#### **5X Commission to advise Minister**

- (1) The Commission must advise the Minister on the following matters relevant to setting an emissions budget:
  - (a) the recommended quantity of emissions that will be permitted in each emissions budget period; and
  - (b) the rules that will apply to measure progress towards meeting emissions budgets and the 2050 target; and
  - (c) how the emissions budgets, and ultimately the 2050 target, may realistically be met, including by pricing and policy methods; and
  - (d) an indication of the proportion of the emissions budget that will be met by greenhouse gas reductions, removals, and offshore mitigation; and
  - (e) the appropriate limit on the amount of offshore mitigation that may be used to meet the emissions budget, including the reasons for the proposed limit and how the limit meets the requirement of **section 5W(1)**.
- (2) In preparing advice for the Minister under **subsection (1)**, the Commission must have regard to the matters set out in **section 5Z**.
- (3) The Commission must provide its advice to the Minister,—
  - (a) in the case of the first 3 emissions budgets, not later than 1 February 2021;
  - (b) in the case of all subsequent emissions budgets, at least 12 months before an emission budget must be notified (or at least 15 months before, if a general election is to take place in that year).
- (4) The Commission must make its advice publicly available after providing it to the Minister.
- (5) The Minister must present a copy of the advice given under **subsection (1)** to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.

#### **5Y Minister’s response to Commission**

- (1) At the time when the Minister sets and notifies an emissions budget in accordance with **section 5U(3)**, the Minister must provide a written response that—
  - (a) responds to the advice received from the Commission; and

- (b) includes a proposed emissions budget for the relevant emissions budget period; and
  - (c) is presented to the House of Representatives.
- (2) If the proposed emissions budget departs from the advice of the Commission, the Minister must— 5
- (a) decide whether it is necessary to further consult persons likely to have an interest in the emissions budget; and
  - (b) in making that decision, consider whether the scope of the consultation undertaken by the Commission has been adequate; and
  - (c) explain the reasons for any departures from the Commission’s advice in the response provided under **subsection (1)**. 10
- 5Z Matters relevant to advising on, and setting, emissions budgets**
- (1) This section applies to—
- (a) the Commission, when it is preparing advice for the Minister under **section 5X**: 15
  - (b) the Minister, when the Minister is determining an emissions budget.
- (2) The Commission and the Minister must—
- (a) have particular regard to how the emissions budget and 2050 target may realistically be met, including consideration of the matters set out in **section 5W(2)**; and 20
  - (b) have regard to the following matters:
    - (i) the emission and removal of greenhouse gases projected for the emissions budget period:
    - (ii) a broad range of domestic and international scientific advice:
    - (iii) existing technology and anticipated technological developments, including the costs and benefits of early adoption of these in New Zealand: 25
    - (iv) the need for emissions budgets that are ambitious but technically and economically feasible:
    - (v) the results of public consultation on an emissions budget: 30
    - (vi) the impact of the actions taken to achieve the 2050 target:
    - (vii) the distribution of those impacts across the regions and communities of New Zealand, and from generation to generation:
    - (viii) the implications of that distribution for mitigating, and adapting to, climate change: 35
    - (ix) economic circumstances and the likely impact of the Minister’s decision on taxation, public spending, and public borrowing:

(x)	the responses to the threat of climate change by all parties to the Paris Agreement or to the Convention:	
(xi)	New Zealand's relevant obligations under international agreements.	
<b>5ZA</b>	<b>Publication of emissions budgets</b>	5
(1)	Before an emissions budget is notified and presented to the House of Representatives, the Minister must consult the appropriate representative of each of the political parties represented in the House of Representatives.	
(2)	When an emissions budget has been finalised by the Minister in accordance with this subpart, the emissions budget must be—	10
(a)	notified in the <i>Gazette</i> , stating the date on which the emissions budget period commences and ends; and	
(b)	presented by the Minister to the House of Representatives; and	
(c)	made publicly available at the direction of the Minister.	
(3)	A <i>Gazette</i> notice published under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.	15
	<i>Revision of emissions budgets</i>	
<b>5ZB</b>	<b>When emissions budgets may be revised</b>	20
	<i>Notified emissions budgets</i>	
(1)	The Commission may, when providing advice and recommendations on a future emissions budget under <b>section 5X</b> , recommend that any emissions budgets notified under <b>section 5U(3)</b> be revised if, since the emissions budgets were originally set,—	25
(a)	there have been methodological improvements to the way that emissions are measured and reported; or	
(b)	1 or more significant changes have affected the considerations listed in <b>section 5Z(2)</b> on which the emissions budgets were based.	
(2)	An emissions budget notified under <b>section 5U(3)</b> may be revised only if the Commission recommends the revision.	30
(3)	The Commission must make its advice publicly available after providing it to the Minister.	
(4)	The Minister must present the advice of the Commission given under <b>subsection (1)</b> to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.	35

*Minister's determination*

- (5) When determining whether to revise a notified emissions budget after receiving advice from the Commission, the Minister must—
- (a) take into account—
    - (i) the Commission's advice; and
    - (ii) the matters set out in **section 5Z(2)**; and
  - (b) follow the procedure set out in **sections 5Y and 5ZA**.
- (6) However, the Minister must not revise an emissions budget—
- (a) after an emissions budget period has begun, unless the circumstances are exceptional; or
  - (b) after the end of the emissions budget period to which it relates.
- (7) If the Minister determines to revise an emissions budget, the Minister must present to the House of Representatives an explanation of the reasons for revising the original emissions budget, having regard to—
- (a) the matters described in **subsection (1)(a) and (b)**; and
  - (b) the prohibition on revising an emissions budget (*see* **subsection (6)**) and any exceptional circumstances that led to the Minister's decision (*see* **subsection (6)(a)**).

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*Banking and borrowing*

**5ZC Power to bank or borrow**

- (1) If the total emissions in an emissions budget period are lower than the emissions budget for that period, the excess reduction may be carried forward to the next emissions budget period (**banked**).
- (2) If the total emissions in a particular emissions budget period are greater than the emissions budget for that particular period, up to 1% of the next emissions budget may be carried back (**borrowed**) to make up the excess emissions in that particular emissions budget period.
- (3) The Minister must decide whether to bank or borrow, and must determine the extent to which banking or borrowing is permitted.
- (4) Before the Minister makes a decision under **subsection (3)**,—
- (a) the Commission must, in its report on an emissions budget period, provide advice on the quantity of emissions that may be banked or borrowed between 2 adjacent emissions budget periods; and
  - (b) the Minister must have regard to that advice.

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*Emissions reduction plan to be prepared*

**5ZD Requirement for emissions reduction plan**

- (1) The Minister must prepare and publish a plan setting out the policies and strategies for meeting an emissions budget.
- (2) The plan must be prepared and published— 5
  - (a) after the relevant emissions budget has been published under **section 5ZA**; but
  - (b) before the commencement of the relevant emissions budget period.
- (3) The plan must include— 10
  - (a) sector-specific policies to reduce emissions and increase removals; and
  - (b) a multi-sector strategy to meet emissions budgets and improve the ability of those sectors to adapt to the effects of climate change; and
  - (c) a strategy to mitigate the impacts that reducing emissions and increasing removals will have on workers, regions, iwi and Māori, and wider communities, including the funding for any mitigation action; and 15
  - (d) any other policies or strategies that the Minister considers necessary.

**5ZE Commission to advise on emissions reduction plans**

- (1) Not later than 12 months before the beginning of an emissions budget period, the Commission must provide to the Minister advice on the direction of the policy required in the emissions reduction plan for that emissions budget period. 20
- (2) Despite **subsection (1)**, the first advice must be given no later than 1 February 2021.
- (3) In preparing its advice, the Commission must— 25
  - (a) consult widely with New Zealanders, including relevant sector representatives and affected communities; and
  - (b) apply **section 5Z(2)** as if it referred to preparing an emissions reduction plan.
- (4) The Commission must make its advice publicly available after providing it to the Minister. 30
- (5) The Minister must prepare and present to the House of Representatives a copy of the advice of the Commission as soon as practicable, but within 12 weeks, after receiving it.

**5ZF Minister to prepare and publish emissions reduction plan**

- (1) In preparing a plan and supporting policies and strategies for an emissions budget period, the Minister must— 35

- (a) consider the advice received from the Commission under **section 5ZE** for meeting emissions budgets; and
- (b) ensure that the consultation has been adequate, including with sector representatives, affected communities, and iwi and Māori, and undertake further consultation as the Minister considers necessary. 5
- (2) Before the relevant emissions budget period commences, the Minister must publish in the *Gazette* the plan, policies, and strategies.
- (3) The Minister may, at any time, amend the plan and supporting policies and strategies to maintain their currency,—
  - (a) using the same process as required for preparing the plan; or 10
  - (b) in the case of a minor or technical change, without repeating the process used for preparing the plan.
- (4) An amended plan must be published in full in the *Gazette*.

#### Subpart 4—Monitoring

#### **5ZG Commission to monitor progress towards meeting emissions budgets** 15

- (1) The Commission must regularly monitor and report on progress towards meeting an emissions budget and the 2050 target in accordance with **sections 5ZH and 5ZI** (which relate to reporting requirements).
- (2) The Commission must carry out its monitoring function in accordance with the rules referred to in **section 5X(1)(b)** (which relates to measuring progress towards meeting emissions budgets and the 2050 target). 20

#### **5ZH Commission to report annually on results of monitoring**

- (1) The Commission must prepare an annual report that includes, for the most recent year of the emissions budget period for which data is available from the New Zealand Greenhouse Gas Inventory,—
  - (a) measured emissions; and
  - (b) measured removals. 25
- (2) The report must also include—
  - (a) the latest projections for current and future emissions and removals; and
  - (b) an assessment of the adequacy of the emissions reduction plan and progress in its implementation, including any new opportunities to reduce emissions. 30
- (3) Not later than 2 months after the publication of a New Zealand Greenhouse Gas Inventory report,—
  - (a) the Commission must make its annual report publicly available after providing it to the Minister; and 35

(b)	the Minister must present the annual report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.	
(4)	Not later than 2 months after receiving the Commission's annual report under <b>subsection (3)</b> , the Minister must present to the House of Representatives a report that—	5
(a)	sets out the Minister's response to the Commission's report and recommendations; and	
(b)	describes the progress made in implementing the current emissions reduction plan; and	
(c)	notes any amendments to that plan.	10
<b>5ZI</b>	<b>Commission to report at end of emissions budget period</b>	
(1)	Not later than 2 years after the end of an emissions budget period, the Commission must prepare a report evaluating the progress made in that emissions budget period towards meeting the emissions budget in the next emissions budget period, including—	15
(a)	an evaluation of how well the emissions reduction plan has contributed to that progress; and	
(b)	recommendations on any banking and borrowing that would be appropriate; and	
(c)	an assessment of the amount of offshore mitigation required to meet the emissions budget for the period to which the report relates, subject to the limit proposed by the Commission under <b>section 5X(1)(e)</b> .	20
(2)	The Commission must provide a copy of the report to the Minister and make that report publicly available after it is provided to the Minister.	
(3)	The Minister must present a copy of the report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.	25
(4)	Not later than 3 months after receiving the Commission's report, the Minister must present a report to the House of Representatives in which the Minister sets out a response to the Commission's report, including the Minister's decisions on—	30
(a)	any banking or borrowing; and	
(b)	the amount (if any) of offshore mitigation that has been required to meet the relevant emissions budget (subject to any limit on the amount proposed by the Commission under <b>section 5X(1)(e)</b> ).	
(5)	If the emissions budget for the relevant emissions period has not been met, the Minister must explain why in the report.	35

Subpart 5—Effect of 2050 target and emissions budgets

**5ZJ Effect of failure to meet 2050 target and emissions budgets**

- (1) No remedy or relief is available for failure to meet the 2050 target or an emissions budget, and the 2050 target and emissions budgets are not enforceable in a court of law, except as set out in this section. 5
- (2) If the 2050 target or an emissions budget is not met, a court may make a declaration to that effect, together with an award of costs.
- (3) If a declaration is made and becomes final after all appeals or rights of appeal expire or are disposed of, the Minister must, as soon as practicable, present to the House of Representatives a document that— 10
  - (a) brings the declaration to the attention of the House of Representatives; and
  - (b) contains advice on the Government’s response to the declaration.

**5ZK 2050 target and emissions budget are permissive considerations**

- (1) A person or body may, if they think fit, take the 2050 target or an emissions budget into account in the exercise or performance of a public function, power, or duty conferred on that person or body by or under law (subject to other requirements that apply by or under law). 15
- (2) However, a failure by any person or body to take the 2050 target, an emissions budget, or guidance issued under **section 5ZL** into account does not invalidate anything done by that person or body. 20

**5ZL Guidance for departments**

- (1) The responsible Minister may issue guidance for departments on how to take the 2050 target or an emissions budget into account in the performance of their functions, powers, and duties (or classes of those functions, powers, and duties). 25
- (2) The responsible Minister must, as soon as practicable after issuing the guidance, make it publicly available.

**Part 1C  
Adaptation**

30

*National climate change risk assessment*

**5ZM National climate change risk assessment**

- (1) A national climate change risk assessment must—
  - (a) assess the risks to New Zealand’s economy, society, environment, and ecology from the current and future effects of climate change; and 35

(b)	identify the most significant risks to New Zealand, based on the nature of the risks, their severity, and the need for co-ordinated steps to respond to those risks in the next 6-year period.	
(2)	<b>Sections 5ZN and 5ZO</b> apply to all national climate change risk assessments except the first one.	5
(3)	<b>Section 5ZP</b> applies to the first national climate change risk assessment.	
<b>5ZN Preparation of national climate change risk assessment</b>		
(1)	The Commission must, no later than 6 years after the date on which the most recent national climate change risk assessment was made publicly available, make the next national climate change risk assessment publicly available.	10
(2)	In preparing a national climate change risk assessment, the Commission must take into account the following:	
(a)	economic, social, health, environmental, ecological, and cultural effects of climate change:	
(b)	the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors:	15
(c)	New Zealand's relevant obligations under international agreements:	
(d)	how the assessment aligns or links with any other relevant national risk assessments produced by central government entities:	
(e)	long-term climate change trends:	20
(f)	any information received as a result of requests made under <b>section 5ZV</b> :	
(g)	scientific and technical advice.	
(3)	The Commission may also take into account—	
(a)	opportunities arising for New Zealand's economy, society, and environment as a result of the effects of climate change; and	25
(b)	any other factor that it thinks is relevant or appropriate.	
<b>5ZO Assessment must be presented to Parliament and made publicly available</b>		
(1)	The Commission must provide to the Minister a copy of an assessment made under <b>section 5ZN</b> and, after providing the assessment to the Minister, make the assessment and any evidence commissioned to support its preparation publicly available.	30
(2)	The Minister must present a copy of the Commission's assessment to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.	35
<b>5ZP Minister must prepare first national climate change risk assessment</b>		
(1)	The Minister must, no later than 1 year after the commencement of this Part,—	

- (a) prepare the first national climate change risk assessment; and
  - (b) present the assessment to the House of Representatives; and
  - (c) make the assessment and any evidence commissioned to support its preparation publicly available.
- (2) **Section 5ZN(2) and (3)** applies with the necessary modifications for the purposes of this section. 5

*National adaptation plan*

**5ZQ National adaptation plan**

- (1) In response to each national climate change risk assessment, the Minister must prepare a national adaptation plan. 10
- (2) A national adaptation plan must set out—
- (a) the Government’s objectives for adapting to the effects of climate change; and
  - (b) the Government’s strategies, policies, and proposals for meeting those objectives; and 15
  - (c) the time frames for implementing the strategies, policies, and proposals; and
  - (d) how the matters in **paragraphs (a) to (c)** address the most significant risks identified in the most recent national climate change risk assessment; and 20
  - (e) the measures and indicators that will enable regular monitoring of and reporting on the implementation of the strategies, policies, and proposals.
- (3) A national adaptation plan may include any other matter that the Minister considers relevant. 25
- (4) In preparing a national adaptation plan, the Minister must take into account the following:
- (a) economic, social, health, environmental, ecological, and cultural effects of climate change, including effects on iwi and Māori:
  - (b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors: 30
  - (c) New Zealand’s relevant obligations under international agreements:
  - (d) any information received as a result of requests made under **section 5ZV**:
  - (e) any relevant advice or reports received from the Commission: 35
  - (f) the ability of communities or organisations to undertake adaptation action, including how any action may be funded:

(g)	scientific and technical advice.	
(5)	The Minister may also take into account any other matter that the Minister thinks is relevant or appropriate.	
(6)	In preparing a national adaptation plan, the Minister must undertake public consultation on the draft plan.	5
<b>5ZR</b>	<b>National adaptation plan must be presented to Parliament and made publicly available</b>	
(1)	The Minister must, no later than 2 years after the date on which the most recent national climate change risk assessment is made publicly available,—	
(a)	present the national adaptation plan to the House of Representatives; and	10
(b)	make the national adaptation plan publicly available.	
(2)	The Minister may make minor or technical changes to a national adaptation plan and must make any new version publicly available (but need not present the new version to the House of Representatives).	
	<i>Progress reports</i>	15
<b>5ZS</b>	<b>Progress reports on national adaptation plan</b>	
(1)	For each national adaptation plan, the Commission must provide the Minister with a progress report that evaluates the implementation of the adaptation plan and its effectiveness—	
(a)	2 years after the adaptation plan is made publicly available; and	20
(b)	4 years after the adaptation plan is made publicly available; and	
(c)	6 years after the adaptation plan is made publicly available.	
(2)	Each progress report must include—	
(a)	an assessment of the progress made towards implementing the strategies, policies, and proposals included in the plan; and	25
(b)	an assessment of the degree to which the objectives of the plan have been achieved and how well the plan responds to the most significant risks posed by climate change; and	
(c)	an identification of any known barriers to the implementation and effectiveness of the current plan, including recommendations for how those barriers might be addressed or overcome in future; and	30
(d)	any other relevant matters required to support the report.	
(3)	The Commission is not required to provide the Minister with a progress report if the date for providing the report to the Minister under <b>subsection (1)</b> is more than 1 year after the date on which a subsequent adaptation plan is made publicly available.	35

<b>5ZT</b>	<b>Progress reports must be presented to Parliament and made publicly available</b>	
(1)	The Minister must present a progress report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it.	
(2)	The Commission must make the report publicly available after providing it to the Minister.	5
<b>5ZU</b>	<b>Minister must respond to progress report</b>	
	The Minister must publicly respond, in writing, to a progress report no later than 6 months after the date on which the Minister receives it.	
	<i>Power to request provision of information</i>	10
<b>5ZV</b>	<b>Minister may request certain organisations to provide information on climate change adaptation</b>	
(1)	The Minister may, in writing, request that a reporting organisation provide all or any of the following information:	
(a)	an assessment of the current and future effects of climate change in relation to the organisation’s functions, including any metrics and costs used to understand and benchmark the effects of climate change in relation to the functions:	15
(b)	a statement of the organisation’s proposals and policies for addressing the effects of climate change in relation to the organisation’s functions, including—	20
(i)	targets set by the organisation to address the effects of climate change:	
(ii)	controls that the organisation has put in place to address the effects of climate change:	25
(iii)	the time frames for implementing those proposals, policies, targets, and controls:	
(c)	an assessment of the progress made by the organisation towards implementing its proposals, policies, and controls and achieving its targets:	
(d)	any matters specified in regulations.	30
(2)	The reporting organisation must comply with a request made under <b>subsection (1)</b> .	
(3)	The Minister must, as soon as practicable, provide the Commission with a copy of any information received.	
(4)	For the purposes of this section and <b>section 5ZW</b> , the following are <b>reporting organisations</b> :	35
(a)	the Public Service, as defined in section 27 of the State Sector Act 1988:	

<ul style="list-style-type: none"> <li>(b) local authorities, as defined in section 5(1) of the Local Government Act 2002:</li> <li>(c) council-controlled organisations, as defined in section 6(1) of the Local Government Act 2002:</li> <li>(d) Crown entities, as defined in section 7(1) of the Crown Entities Act 2004, but excluding school boards of trustees:</li> <li>(e) companies listed in Schedule 4A of the Public Finance Act 1989:</li> <li>(f) organisations listed in Schedule 1 of the State-Owned Enterprises Act 1986:</li> <li>(g) lifeline utilities listed in Schedule 1 of the Civil Defence Emergency Management Act 2002:</li> <li>(h) the New Zealand Police:</li> <li>(i) the New Zealand Defence Force.</li> </ul>	<p>5</p> <p>10</p>
<b>5ZW Regulations relating to requiring provision of information</b>	
<ul style="list-style-type: none"> <li>(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations specifying all or any of the following: <ul style="list-style-type: none"> <li>(a) requirements that relate to information that is provided in response to a request under <b>section 5ZV(1)</b>, including different requirements for different sectors, classes of activity, or geographical areas:</li> <li>(b) a date by which or time within which requested information must be provided to the Minister:</li> <li>(c) ongoing or recurring reporting requirements (for example, requiring the provision of further information at regular intervals following a request):</li> <li>(d) any administrative matters relating to responses to requests.</li> </ul> </li> <li>(2) In preparing the regulations, the Minister must consider— <ul style="list-style-type: none"> <li>(a) the ability to tailor a request to reflect the size and capability of the reporting organisation; and</li> <li>(b) the potential extent and significance of climate change effects on the functions of the reporting organisation; and</li> <li>(c) the avoidance of unnecessary duplication of information provided within existing reporting frameworks.</li> </ul> </li> <li>(3) Before recommending the making of the regulations, the Minister must consult the Commission and the reporting organisations that the Minister considers may be affected by the proposed regulations.</li> </ul>	<p>15</p> <p>20</p> <p>25</p> <p>30</p>
<b>9 New Schedule 1AA inserted</b>	35
<p>Insert the <b>Schedule 1AA</b> set out in <b>Schedule 1</b> of this Act as the first schedule to appear after the last section of the principal Act.</p>	

## Part 2 Consequential amendments

- 10 Section 99 amended (Obligation to maintain confidentiality)**
- (1) After section 99(1)(a), insert:
- (ab) to the Climate Change Commission, in respect of the performance of its functions or exercise of its powers under **Parts 1A to 1C**; and 5
- (2) In section 99(2)(a), replace “this Part and Part 5” with “the relevant Part of this Act”.
- (3) After section 99(2)(b)(iiia), insert:
- (iiib) to the Climate Change Commission for the purpose of assisting the Commission to perform its functions and duties and exercise its powers under this Act; or 10
- 11 Section 224 amended (Gazetting of targets)**
- After section 224(5), insert:
- (6) This section does not apply to a target for greenhouse gas emissions. 15
- 12 Section 225 repealed (Regulations relating to targets)**
- Repeal section 225.
- 13 Amendments to other enactments**
- Amend the enactments specified in **Schedule 2** as set out in that schedule.
- 14 Notice revoked** 20
- The Climate Change Response (2050 Emissions Target) Notice 2011 (*Gazette* 2011, p 987) is revoked.

**Schedule 1**  
**New Schedule 1AA inserted**

s 9

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 4A

**Part 1**  
**Provisions relating to Climate Change Response (Zero Carbon)**  
**Amendment Act 2019**

- 1 Appointment of first members of Commission** 10
- (1) This clause applies in respect of the appointment of the first 7 members of the Commission.
- (2) The Minister may recommend to the Governor-General that a person be appointed as a member if the Minister has, either before or after the commencement of **Part 1A**,— 15
- (a) had regard to the matters in **section 5H**; and
- (b) consulted representatives of all other political parties in Parliament.
- (3) This clause overrides **section 5E**.
- 2 Preparatory work for first national climate change risk assessment**
- (1) This clause applies if, before the commencement of **Part 1C**, the Minister takes any steps referred to in **section 5ZP(1)**. 20
- (2) **Part 1C** must be treated as if it were in force when the steps are taken.
- (3) If the Minister makes a national climate change risk assessment publicly available before the commencement of **Part 1C**,— 25
- (a) the national climate change risk assessment must be treated as the first national climate change risk assessment under **Part 1C**; and
- (b) the Minister must present the first national adaptation plan to the House of Representatives and make it publicly available no later than 2 years after the date on which **Part 1C** commences.
- 3 Savings of targets for greenhouse gas emissions made under section 224** 30
- A target for greenhouse gas emissions made under section 224 before the commencement of **section 224(6)**—
- (a) continues in force as if **section 224(6)** had not been enacted; and
- (b) may be amended or revoked as if **section 224(6)** had not been enacted.

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**Schedule 2**  
**Amendments to other enactments**

**s 13**

**Crown Entities Act 2004 (2004 No 115)**

In Schedule 1, Part 3, insert in its appropriate alphabetical order:

5

Climate Change Commission

**Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Climate Change Commission