

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

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill amends the Climate Change Response Act 2002 (the **CCRA**) to remove agriculture activities from the New Zealand Emissions Trading Scheme (the **NZ ETS**).

The Bill supports the Government’s coalition agreements and the National Party’s manifesto commitment to keep agriculture out of the NZ ETS. It also aligns with Action 12, “Finalise policy to keep agriculture out of the ETS”, of the Coalition Government’s Action Plan for New Zealand for the April to June 2024 quarter.

The CCRA, via the NZ ETS, currently requires—

- agricultural processors to surrender New Zealand units (**NZUs**) to pay for their agricultural emissions from 1 January 2025 (processors currently report their emissions); and
- animal farmers to report their emissions from 1 January 2026, and to surrender NZUs to pay for them from 1 January 2027.

Changes to the CCRA are needed to remove those obligations because—

- processor-level pricing of agricultural emissions may not effectively incentivise farmers to reduce their on-farm emissions, as on-farm behavioural changes may not be effectively recognised (processors may pass the same cost to all farmers regardless of their emissions efficiency). This also means that there would be little incentive to incorporate mitigations on-farm:
- applying a single price to all gases contradicts the intended split-gas pricing approach of New Zealand’s legislated split gas targets:
- implementing the farm-level obligations in the NZ ETS could bring around 100,000 farmers into the NZ ETS as participants. This is likely to present sig-

nificant administrative, compliance, and data management challenges. It would also be costly for farmers to comply with the system. Retaining any form of obligations for agriculture in the NZ ETS contradicts the Government's clear commitment to keep agriculture out of the NZ ETS.

### **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=2024&no=62>

### **Regulatory impact statement**

The Ministry for the Environment and the Ministry for Primary Industries produced a regulatory impact statement on 20 March 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/ris-amending-the-climate-change-response-act/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

This Bill removes agricultural activities from the emissions trading scheme by amending the Climate Change Response Act 2002.

*Clause 1* is the Title clause.

*Clause 2* provides for the Bill to commence on the day after Royal assent.

## **Part 1**

### **Amendments to Climate Change Response Act 2002 to remove agricultural obligations**

*Clause 3* provides that the principal Act amended by this Part is the Climate Change Response Act 2002 (the **Act**).

*Clauses 4 to 8, 13 to 15, 20, 30, 31, 33, 34, and Schedule 1* of the Bill remove agriculture-specific references and obligations throughout the Act.

*Clauses 9 and 10, 16, 18, 22 to 28, and 32* change all references to eligible activity to references to eligible industrial activity throughout the Act. This is because the existing definition of eligible activity refers to both industrial and agricultural activities. When the agricultural component is removed from that definition, the definition will

no longer be required. Instead the Act will be able to rely on the specific industrial definition.

*Clauses 11 and 12, 17, 19, 21, 28, and 29* make consequential amendments as a result of removing the agriculture-specific elements of the Act.

*Clause 33* is the operative provision that removes agricultural activities from Part 5 of Schedule 3. Schedule 3 of the Act lists the activities where persons carrying out those activities are required to become participants under the emissions trading scheme, in which agriculture will no longer be included.

*Clause 32 and Schedule 2* of the Bill provide transitional arrangements for participants who had already registered under the emissions trading scheme for agricultural activities. The transitional arrangements confirm that those participants cease to be participants under the Act (and therefore under the emissions trading scheme) in relation to agricultural activities, from the commencement of this Bill. The main exception is that they must retain any records that they have already collected (ie, any records they collected before the commencement of this Bill) for at least 7 years in accordance with the Act.

The transitional arrangements also require the Environmental Protection Authority (the **EPA**) to subsequently remove the agricultural participants from the participant register within 6 months. This will not affect any rights or obligations of those participants undertaking other activities or having holding accounts under the Act.

Normally, when the EPA removes a participant from the register, that participant will receive an automated notification to submit an emissions return for that year. However, to avoid the agricultural participants receiving an automated return notification for 2024 (as they will not be required to submit any emissions returns for agriculture activities in that year), the transitional provisions allow the EPA to enter a retrospective deregistration date for the agricultural participants. As an effect of this Bill, those participants will cease to be participants under the Act from the commencement date of this Bill. However, for the EPA's administrative purposes only, the participant register may record a date of 31 December 2023 as the date they ceased to be participants under the scheme.

## Part 2

### Consequential revocations and amendments to other legislation

*Clause 35* revokes 2 pieces of secondary legislation that will be redundant on the commencement of this Bill, as they relate to agricultural obligations.

*Clauses 36 to 39* make related amendments to the Climate Change (General Exemptions) Order 2009 to remove the elements that relate to agricultural obligations.



*Hon Simon Watts*

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

- 1 Title**  
This Act is the Climate Change Response (Emissions Trading Scheme Agricultural Obligations) Amendment Act **2024**.
- 2 Commencement** 5  
This Act comes into force on the day after Royal assent.

**Part 1**

**Amendments to Climate Change Response Act 2002 to remove  
agricultural obligations**

- 3 Principal Act** 10  
This Part amends the Climate Change Response Act 2002.
- 4 Section 2A amended (Application of Schedules 3 and 4)**  
(1) Replace section 2A(1) with:  
(1) Any provision in this Act that imposes an obligation on, or provides an entitlement to, a person in respect of an activity listed in Schedule 3 or 4— 15  
(a) does not apply to that person unless the Part or subpart in Schedule 3 or 4 in which the activity is listed applies; and  
(b) applies subject to sections 178A and 178B.  
(2) Repeal section 2A(5A) to (5D).
- 5 Section 3A amended (Treaty of Waitangi (Te Tiriti o Waitangi))** 20  
Repeal section 3A(b)(i) and (xi).
- 6 Section 3B amended (Consultation about certain regulations, orders, and notices)**  
Repeal section 3B(1)(j) and (r).
- 7 Section 4 amended (Interpretation)** 25  
In section 4(1), repeal the definitions of **animal material**, **animal product**, **animal welfare export certificate**, **dairy processing**, **eligible activity**, **eligible agricultural activity**, and **farm dairy**.
- 8 Section 5J amended (Commission’s functions)**  
Repeal section 5J(ha). 30

- 9 Section 30GB amended (Regulations about limits and price control settings for units)**  
 In section 30GB(8), definition of **New Zealand units available by other means**, after “eligible”, insert “industrial”.
- 10 Section 30IA amended (Minister must obtain greenhouse gas reductions to match certain excess units)** 5  
 In section 30IA(1)(b), after “eligible”, insert “industrial”.
- 11 Section 54 amended (Participants)**  
 (1) In section 54(1)(a)(i), replace “204, or 213” with “or 204”.  
 (2) In section 54(2), replace “204, or 213” with “or 204”. 10
- 12 Section 59 amended (Removal from register of participants in respect of activities listed in Schedules 3 and 4)**  
 In section 59(3), after “211”, insert “and **Part 4 of Schedule 1AA**”.
- 13 Section 65 amended (Annual emissions returns)** 15  
 Replace section 65(4) with:  
 (4) Following the submission of an annual emissions return under subsection (1), a participant must, by 31 May, surrender the number of units listed in the participant’s assessment under subsection (2)(c)(i).
- 14 Cross-heading above section 80 amended** 20  
 In the cross-heading above section 80, delete “*and agriculture*”.
- 15 Section 86 amended (Applications for allocation of New Zealand units for industry and agriculture)**  
 (1) In the heading to section 86, delete “**and agriculture**”.  
 (2) In section 86(1), delete “or eligible agricultural activity”.  
 (3) Repeal section 86(1A)(c). 25  
 (4) Replace section 86(2)(b) with:  
 (b) contain, as relevant, the applicant’s assessment of their—  
     (i) provisional allocation entitlement in respect of the year calculated in accordance with section 81:  
     (ii) final allocation entitlement in respect of the previous year calculated in accordance with section 83(2): 30  
     (iii) annual allocation adjustment relating to the previous year calculated in accordance with section 83(3) or 84(4):  
     (iv) closing allocation adjustment for the year calculated as required under section 84(1)(b); and 35



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- 16 Section 86B amended (Decisions on applications for allocations of New Zealand units to industry)**  
In section 86B(5) and (6)(b), replace “eligible activity” with “eligible industrial activity”.
- 17 Section 86C amended (Reconsideration of allocation decisions)** 5  
In section 86C(1), delete “or 86BA”.
- 18 Section 86D amended (Retention of records and materials in relation to allocation)**  
In section 86D(1) and (1)(c), after “eligible”, insert “industrial”.
- 19 Section 86E amended (EPA may require further information for purpose of carrying out functions under subpart)** 10  
In section 86E(1) and (4), delete “or 86BA”.
- 20 Section 87 amended (Functions of EPA)**  
In section 87(1)(ba), delete “and agriculture”.
- 21 Section 107 amended (Applications for emissions rulings)** 15  
In section 107(1)(c), delete “161G,”.
- 22 Section 150 amended (Formation of consolidated group)**  
In section 150(2)(b), (4)(c)(ii), (6A)(c), and (6B), replace “eligible activity” with “eligible industrial activity”.
- 23 Section 151 amended (Changes to consolidated groups)** 20
- (1) In section 151(2)(b)(ii), (2)(c)(ii), (6)(c), and (7)(c), after “eligible”, insert “industrial”.
- (2) In section 151(6), replace “eligible activity” with “eligible industrial activity”.
- 24 Section 151A amended (Addition of activities to consolidated groups)**  
In section 151A(2)(b)(ii), after “eligible”, insert “industrial”. 25
- 25 Section 153 amended (Effect of being member of consolidated group)**
- (1) In section 153(1)(d), replace “eligible activity” with “eligible industrial activity”.
- (2) In section 153(5), after “eligible”, insert “industrial”.
- 26 Section 156 amended (Effect of ceasing to be member of consolidated group)** 30  
In section 156(a) and (b), after “eligible”, insert “industrial”.

- 27 Section 156A amended (Removal of activities from consolidated groups)**  
In section 156A(4), after “eligible”, insert “industrial”.
- 28 Section 157 amended (Unincorporated bodies)**
- (1) In section 157(1)(a), (2)(b), (2)(b)(i), and (6), after “eligible”, insert “industrial”. 5
- (2) In section 157(1)(b), replace “, 204, or 213” with “or 204”.
- (3) In section 157(6)(b), replace “eligible activity” with “eligible industrial activity”.
- 29 Section 169 amended (Incorporation by reference in certain regulations)**  
In section 169(4), delete “161G,”. 10
- 30 Part 5C repealed**  
Repeal Part 5C.
- 31 Sections repealed**  
Repeal the sections specified in **Schedule 1**.
- 32 Schedule 1AA amended** 15
- (1) In Schedule 1AA, clauses 11(2) and 39(6), after “eligible”, insert “industrial”.
- (2) In Schedule 1AA,—
- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- 33 Schedule 3 amended** 20  
Repeal Part 5 of Schedule 3.
- 34 Schedule 5 repealed**  
Repeal Schedule 5.

## **Part 2**

### **Consequential revocations and amendments to other legislation** 25

- 35 Secondary legislation revoked**
- (1) The Climate Change (Agriculture Sector) Regulations 2010 (SR 2010/335) are revoked.
- (2) The Climate Change (Animals–Farmer Activities) Order 2023 (SL 2023/282) is revoked. 30

*Related amendments to Climate Change (General Exemptions) Order 2009*

- 36 Principal order**  
**Sections 37 to 39** amend the Climate Change (General Exemptions) Order 2009.
- 37 Clause 3 amended (Interpretation)** 5  
In clause 3, revoke the definitions of **calf, cow, heifer, milk solids, slaughter point, synthetic fertilisers containing nitrogen, and vealer.**
- 38 Clauses 8 to 11 revoked**  
Revoke clauses 8 to 11.
- 39 Schedule 1 amended** 10  
In Schedule 1, revoke the items relating to clauses 8, 10, and 11.

**Schedule 1**  
**Sections repealed**

	<b>s 31</b>
Sections 2B and 2C	
Sections 85 and 85A	5
Section 86BA	
Section 86BC	
Sections 161G and 161H	
Section 217	
Sections 219 and 220	10

**Schedule 2**  
**New Part 4 inserted into Schedule 1AA**

**s 32(2)**

**Part 4**

**Provisions relating to Climate Change Response (Emissions Trading  
Scheme Agricultural Obligations) Amendment Act 2024** 5

**43 Interpretation**

In this Part,—

**commencement date** means the commencement date of the Climate Change  
Response (Emissions Trading Scheme Agricultural Obligations) Amendment 10  
Act **2024**

**deregistration date** means the date that the EPA enters in the register kept  
under section 56(3) to record when a participant has been removed from the  
register

**effective removal date** means the date on which a participant ceases to be a 15  
participant under this Act (which is the commencement date for the purposes of  
this Part).

**44 Existing obligations on agriculture participants**

(1) On and from the commencement date, persons who were participants under  
section 54(1)(a) by virtue of an activity or activities listed in Part 5 of Schedule 20  
3 will cease to be participants under this Act, subject to **subclause (2)**.

(2) To avoid doubt,—

(a) section 54(4) continues to apply to those persons referred to in **sub-**  
**clause (1)**, but only to the extent that it applies to activities carried out 25  
before the commencement date; and

(b) those persons referred to in **subclause (1)** are not required to submit  
any emissions returns (as defined in section 4(1)) for activities listed in  
Part 5 of Schedule 3 that were carried out in the 2024 calendar year or  
any period after the commencement date.

(3) For the purposes of section 67(2)(c) if it applies under section 54(4) (as 30  
referred to in **subclause (2)(a)**), the 7-year period starts from 1 January 2025.

(4) **Subclauses (1) to (3)** apply regardless of when those persons referred to in  
**subclause (1)** are removed from the register under **clause 45**.

**45 Removal of agriculture participants from register**

(1) This clause applies to the EPA. 35

- (2) Within 6 months of the commencement date, the EPA must remove the names of participants who had been entered on the register in accordance with section 56 for activities listed under Part 5 of Schedule 3.
- (3) In order to avoid triggering automated 2024 returns notifications being sent to the participants referred to in **subclause (2)**, the EPA may use 31 December 2023 as the deregistration date. 5
- (4) The use of 31 December 2023 as the deregistration date in **subclause (3)** is for administrative purposes only and does not affect the effective removal date.
- (5) As soon as is reasonably practicable after removing a participant's name, the EPA must notify the person that the person's name has been removed from the register in respect of the relevant activity under Part 5 of Schedule 3. 10
- (6) The EPA must not register any new participants who, before the commencement date, had provided notice under section 56 for activities in respect of Part 5 of Schedule 3, and who have not yet been entered on the register.
- (7) To avoid doubt, this clause does not affect— 15
  - (a) the names of participants on the register for activities other than agriculture listed in Schedule 3 or 4; or
  - (b) the option to request the closure of a holding account under section 18B.
- (8) This clause overrides sections 59 and 118.