

Departmental Disclosure Statement

Regulatory Systems (Climate Change Response) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry for Primary Industries (MPI).

MPI certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

Date finalised: 7 June 2023.

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Part One: General Policy Statement

This Bill contains amendments to forestry-related provisions of the Climate Change Response Act 2002 administered by the Ministry for the Environment (MfE). The Ministry for Primary Industries (MPI) undertakes the day to day operational functions related to forestry under delegated authority from the Environmental Protection Authority (EPA). The policy objective of the Bill is to improve regulatory systems by ensuring that they are effective and efficient and that they accord with best regulatory practice. The amendments will achieve that objective by—

- clarifying and updating statutory provisions to give effect to the purpose of the Act and its provisions:
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation:
- ensuring the regulatory systems remain up to date and relevant:
- reducing the administrative burden for regulators and regulated parties.

The amendments were identified as part of MPI's wider regulatory systems work programme, which arises from the Director-General of MPI's responsibility for the stewardship of the legislation administered by MPI under section 12 of the Public Service Act 2020.

The Bill also responds to the New Zealand Productivity Commission's June 2014 report, *Regulatory institutions and practices*. The New Zealand Productivity Commission found that it can be difficult to find time on the parliamentary calendar for repairs and maintenance of existing legislation. As a result, regulatory agencies often have to work with legislation that is out of date or not fit for purpose. This creates unnecessary costs for regulators and regulated parties and means that regimes may not keep up with public or political expectations.

This Bill is a vehicle for those smaller regulatory fixes to be made in a timely and cost-effective fashion in order to deliver the flow-on benefits to business and the wider economy.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<i>Regulatory institutions and practices</i> , New Zealand Productivity Commission, June 2014 (accessible at https://www.productivity.govt.nz/inquiries/regulatory-institutions-and-practices/)	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Regulatory Impact Statement: Primary Industries Regulatory Systems Amendment Bill, Ministry for Primary Industries, 7 April 2022. The RIS is accessible at https://www.mpi.govt.nz/dmsdocument/52354/direct and can also be found at https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
MPI's internal RIA panel provided an independent opinion on the quality of the RIS.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

MPI's analysis has considered potential impacts and benefits of New Zealand's international treaties and obligations and considers that there are no significant issues raised by the proposed reform. MPI has consulted the Ministry of Foreign Affairs and Trade on the policy to be given effect by this Bill and no concerns were identified.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

MPI's analysis considered potential Treaty implications for the provisions in the Bill and considers there are no significant issues raised, and considers that the Bill's amendments are consistent with the principles of the Treaty of Waitangi. MPI has consulted Te Arawhiti and Te Puni Kōkiri on the contents of this Bill. No inconsistencies between the proposals and the principles of the Treaty of Waitangi have been identified or raised through the policy process.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	NO
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The proposals in this Bill are consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Identifying proposals for the forestry provisions of the Climate Change Response Act 2002 benefited from there being a reasonable length of time between when the Climate Change Response (Emission Trading Reform) Amendment Act 2020 (ETR) received royal assent (June 2020) and when the majority of the provisions went 'live' (January 2023). The proposals for amendments within the Bill were informed by three main sources of information:</p> <ol style="list-style-type: none">1) Feedback from the forestry sector and wider professionals providing feedback on where they felt the ETR was not clear, or did not address their specific forestry model.2) Development of the Climate Change (Forestry) Regulations 2022, including two rounds of public consultation, and working with the Technical Advisory Group of forestry Emissions Trading Scheme (ETS) experts.3) Developing Tupu-ake, the new IT system to support the administration of the ETS, as well as work on developing the operational policies to implement the new legislation.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>The Bill's provisions were discussed with the Environmental Protection Authority to ensure they are workable.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
Clause 24 amends section 191I to empower the making of regulations for determining the NACS for a subsequent rotation that is based on current age of the forest species present where higher than the previous rotation.	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO