

Climate Change Response Amendment Bill 2005

8 March 2005

Attorney-General

LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990: CLIMATE CHANGE RESPONSE AMENDMENT BILL 2005

1. We have considered the Climate Change Response Amendment Bill (the "Bill") (PCO version 5767/10) for consistency with the New Zealand Bill of Rights Act 1990 (the "Bill of Rights Act"). We understand that this Bill is to be considered by the Cabinet Legislation Committee at its meeting on Thursday, 17 March 2005.
2. The Bill amends the Climate Change Response Act 2002 to ensure continued compliance with New Zealand's obligations under the Kyoto Protocol. The Bill deals with two issues. The first relates to New Zealand's Kyoto Protocol Registry and the second creates a new mechanism as an incentive for landowners to create permanent forest sinks.
3. The Bill introduces two new types of units, Temporary Certified Emission Reductions (tCERS) and Long-term Certified Emission Reductions (lCERS), for forest sink projects. The creation of these new units came out of decisions from the ninth Conference of the Parties to the UN Framework Convention on Climate Change. In order to meet our Kyoto Protocol obligations, New Zealand has to account for these new types of units.
4. The Climate Change Response Act 2002 put in place a framework to allow New Zealand to meet its international obligations under the Kyoto Protocol. This included the establishment of a national emissions unit register to account for holdings and transfers of various emission units. The Bill amends the Register to provide for the accounting of these new types of units. It also makes provision for legal entities other than the Crown to hold accounts in the unit register.
5. The Bill also provides for the establishment of a mechanism to allow landowners to access the value, created under the Kyoto Protocol, of sequestering carbon on their land through establishing new forests. Participation in the new mechanism is voluntary. The mechanism acts as an incentive to landowners to create permanent (non-harvest) forest sinks by providing that landowners can receive returns from such forests in proportion to the carbon sequestered by them. The mechanism will be a contract (registered against land titles) between the Crown and a landowner.
6. We have concluded that the Bill appears to achieve overall consistency with the Bill of Rights Act.
7. In accordance with previous practice, we attach a copy of this opinion for referral to the Minister of Justice. We also attach a copy for referral to the Convenor of the Ministerial Group on Climate Change, if you agree.

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cc Minister of Justice
Convenor of the Ministerial Group on Climate Change

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