

ETS Update: Proposed changes to industrial allocation amounts and penalties for small forestry participants

Proposed changes to the Emissions Trading Scheme tighten the scheme for some participants, while providing additional leniency to others.

The Climate Change Response (Late Payment Penalties and Industrial Allocation) Amendment Bill (**Bill**) has passed its first reading in Parliament, and the Environment Committee is now accepting submissions on the Bill's proposed changes to the Emissions Trading Scheme (**ETS**).

The Bill has two main objectives:

- to reduce the amount of New Zealand Units (**NZUs**) provided to certain industrial emitters under the industrial allocation regime; and
- to update the penalties for small forestry participants who fail to surrender or repay NZUs by the due date, so as to be more proportionate.

Changes to industrial allocation

Under the ETS, certain participants who have a limited ability to pass the costs of the ETS onto consumers, or who are trade-exposed to overseas competitors that are not subject to an equivalent carbon tax in their jurisdiction, are eligible to receive an "industrial allocation" of free NZUs annually to reduce compliance costs and ensure they are not disproportionately affected when compared to other participants.

The Bill amends the industrial allocation settings so that certain recipients of industrial allocation will have their entitlement reduced, due to those participants receiving excess NZUs when compared against their actual production levels and associated gross emissions, and when considering the best available technologies now available to them. This over-allocation of NZUs is estimated to cost the Government approximately \$60m annually, and risks undermining the integrity of the ETS.

On the other hand, certain industrial allocation recipients may have their entitlement increased, to ensure that they are receiving an appropriate level of assistance. This will ensure that these participants remain internationally competitive, and will help to prevent them leaving New Zealand due to comparatively higher compliance costs than in other countries (known as "emissions leakage").

Changes to penalties for small forestry participants

The Bill also updates the penalties for small forestry participants (being those with low-volume liabilities of less than 25,000 NZUs on average per year) who fail to surrender or repay NZUs owed at the due date.

Under the current settings, these participants can face a penalty of up to three times the value of each NZU owed, which risks unfairly placing the small foresters into financial hardship.

Under the Bill, the following changes are made:

- the penalty shall be 0.5x the value of the unpaid NZUs, where the unpaid liability relates to post-1989 forest land registered in the ETS;
- the penalty shall be 0.25x the value of the NZUs, where the unpaid liability relates to deforestation of pre-1990 forest land; and
- the Environmental Protection Agency may waive the penalty altogether, where the participant can demonstrate total absence of fault.

Want to make a submission?

The Environment Committee is accepting submissions on the Bill until 6 April 2023.

Want to know more?

If you have any questions about the Emissions Trading Scheme and its potential implications or opportunities for your business, please contact [Josh Williams](#), [Tom Mohammed](#), or a member of our [specialist Carbon Trading, Emissions Trading Scheme and Climate Change team](#).