# Summary of Underpinning Analysis: Climate Change Response Amendment Bill

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| **Agency responsible** | Ministry for the Environment |
| **Portfolio** | Climate Change |
| **Date finalised** | 15 June 2026 |
| **Identification Number** | REG- 1753 (Local Adaptation planning)<br>REG-1226 (Market Governance)<br>REG-1726 (Industrial allocation)<br>REG-1787 (Resetting the timeframes for deforestation tests)<br>REG-2120 (Forestry technical changes)<br>REG-1715 (Importing $CO_2$ as a new mandatory activity)<br>REG-1920 (General power to add mandatory activity to Sch 3)<br>REG-1891 (Biennial review) |

**Note**: On 1 July 2026, the Ministry for the Environment (MfE) will be disestablished. MfE's existing functions under the Climate Change Response Act (the Act) will become the functions of the Ministry for Cities, Environment, Regions and Transport. All references to MfE are to be interpreted as MCERT once MfE is disestablished and the roles and functions transfer on 1 July 2026.

## Good law-making: 9(i)

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| **The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation** | |
| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

Engagement was proportionate to the scale, timing and nature of the proposals and varied across the Bill's workstreams.

**Adaptation:** adaptation proposals were informed by engagement undertaken during 2025 following the Finance and Expenditure Committee inquiry, including meetings with local government groups, and 24 hui with post-settlement governance entities and some yet-to-settle groups as part of the wider National Adaptation Framework work programme. Officials also met with, and received written feedback from, Te Tai Kaha and the National Iwi Chairs Forum (Pou Take Āhuarangi), including on adaptation planning proposals specifically, and considered feedback from recent select committee processes on climate adaptation.

**Market governance:** market governance proposals have been consulted on over time, including in 2015, 2018, 2021 and 2022, with targeted engagement in 2024. Recent engagement focused on affected stakeholders, including trading platforms and market participants, to test whether the proposals were proportionate and workable for the New Zealand Emissions Trading Scheme (NZ ETS) market. More detailed design and implementation choices, including some Emissions Trading Register (the Register) reporting settings, will require further targeted engagement.

**Efficiency:** officials undertook targeted engagement on the broader efficiency with the Climate Change Commission, the Parliamentary Commissioner for the Environment, business and sector groups, climate experts, and Māori, including Te Tai Kaha, the National Iwi Chairs Forum (Pou Take Āhuarangi) and post-settlement governance entities. However, not all final efficiency proposals were separately tested before introduction.

In particular, full public consultation was not undertaken on the proposal to move to biennial NZ ETS settings because of legislative timing constraints. Instead, rapid targeted engagement was undertaken with a small number of stakeholders. In June 2026, Cabinet agreed to consult on the 2026 NZ ETS settings, including testing whether the risks of the change to biennial settings outweighs the benefits.

**Industrial allocation:** targeted engagement was undertaken with affected firms, industry representatives and agencies responsible for administering the NZ ETS to test the practical implications of the proposals. Consultation was targeted rather than broad-based, reflecting the narrow set of directly affected participants.

**Carbon removals:** this amendment is enabling in nature and does not create participation entitlements for any specific activity. No targeted consultation was undertaken on the legislative amendment itself, beyond broader policy engagement on carbon removals. More targeted engagement is expected if and when particular removal activities are assessed for inclusion through the Carbon Removals Assessment Framework.

**Forestry:** many forestry amendments arose from the day-to-day operation of forestry in the NZ ETS and tested through regular discussion with Ministry for Primary Industries' (MPI) Forestry NZ ETS Technical Advisory Group. Officials also contacted Māori forestry interests and held an online hui with Māori forestry representatives from Tairāwhiti. Engagement was targeted and operationally focused, reflecting the technical nature of the proposals.

**NZ ETS technical amendments:** targeted engagement was undertaken with the largest affected importers and relevant domestic suppliers on imported carbon dioxide. There was limited pre-introduction consultation on the proposed general power to add mandatory non-agricultural activities to the NZ ETS because of the short time between issue identification, policy development and Cabinet decisions within the available legislative window. Broader stakeholder input is expected through the select committee process and before any future exercise of the power.

**Overall:** consultation was strongest where proposals had been in development over time or affected identifiable stakeholders. It was more limited where proposals were technical or enabling in nature, developed within compressed timeframes, or related to future regulation-making and implementation choices.[1] For most of the proposals in the Bill the Regulatory Impact Statements (RISs) fully met the Quality Assurance Panel (QAP) criteria including for consultation. In four instances (forestry, penalty calculations, new emitting activities and biennial settings), the panel assessments considered they partially met the criteria and noted consultation limitations that constrained the option assessments from a regularity impact analysis perspective.

However, in each case the more targeted engagement with those likely to be directly and materially affected by the legislation has been sufficient for consistency with principle 9(i). The select committee process will provide a further opportunity for public and stakeholder input on the Bill, alongside any subsequent implementation processes where relevant.

## Good law-making: 9(j)

**The importance of carefully evaluating—**

- **the issue concerned; and**
- **the effectiveness of any relevant existing legislation and common law; and**
- **whether the public interest requires that the issue be addressed; and**
- **any options (including non-legislative options) that are reasonably available for addressing the issue; and**
- **who is likely to benefit, and who is likely to suffer a detriment, from the legislation**

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| **Inconsistency identified?** | NO |

**Summary of agency analysis**

The policy decisions were informed by multiple RISs and supporting analysis across workstreams. Part 2 of the Regulatory Standards Act 2025 requires Regulatory Analysis Summaries (RAS) to be produced instead of RISs. This new requirement comes into force on 1 July 2026. Since the proposals were taken to Cabinet prior to this date, RASs are not required.

The RISs assessed a range of options, including non-legislative approaches and considered impacts on affected parties. They include qualitative and some quantitative estimates of costs and benefits and confirm that no group is expected to suffer a detriment due to the proposed legislative amendments.

The RISs did not meet the threshold to require an independent opinion on the quality of the RISs from the Ministry for Regulations' Regulatory Impact Analysis (RIA) Team.

[1] These limitations are also reflected in the RIS panel assessments reported in section 9(j).

Title: Local Adaptation Planning

Authoring agency: Ministry for the Environment

Available at: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-local-adaptation-planning/

Panel comment: *The QA panel considers it meets the Quality Assurance criteria. It marks an initial step in a broader regulatory process, with further analysis and RISs to follow.*

Title: Reducing investment uncertainty and disincentives to decarbonise created by industrial allocation

Authoring agency: Ministry for the Environment

Available at: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-reducing-investment-uncertainty-and-disincentives-to-decarbonise-created-by-industrial-allocation/

Panel comment: *The QA panel considers it meets the Quality Assurance criteria. The panel found the RIS to be complete and convincing. It presents two sufficiently developed problems and a clear objective, and it evaluates a suitable range of policy options for each issue. The RIS is generally pitched at the right level for a broad audience and makes a commendable effort to explain complex and technical aspects of the Emissions Trading Scheme and industrial allocation policy. Overall, the RIS provides a solid basis for decision-making. While the panel noted some limitations — particularly the limited concrete evidence supporting the problem definitions and the absence of public consultation on the preferred options — these issues are transparently acknowledged in the RIS and do not significantly affect the overall analysis or advice.*

Title: Improvements to the administration of the Emissions Trading Scheme through amendments to the Climate Change Response Act 2002 (2026)

Authoring agency: Ministry for Primary Industries

Available at: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-improvements-to-the-administration-of-the-emissions-trading-scheme-through-amendments-to-the-climate-change-response-act-2002-2026/

Panel comment: *The QA panel considers it partially meets the Quality Assurance criteria. This rating is attributable to the limited consultation undertaken on the recommended option. This limits the availability of information to support cost/benefit analysis, and fully informed comparison between the options.*

(Please see 'Forestry' in section 9(i) above that describes the consultation undertaken in relation to the proposed policy. The constrained timeline limited consultation; however, some of the proposals were informed by MPI's operational experience and communications with participants and is considered reasonable and therefore not inconsistent with principle 9(i).)

Title: Adjusting the penalty calculation for incorrect emissions returns through amendments to the Climate Change Response Act 2002 (2026)

Authoring agency: Ministry for Primary Industries

Available at: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-adjusting-the-penalty-calculation-for-incorrect-emissions-returns-through-amendments-to-the-climate-change-response-act-2002/

Panel comment: *The QA panel considers it partially meets the Quality Assurance criteria. This rating is attributable to the limited consultation undertaken on the recommended option. This limits the availability of information to support cost/benefit analysis, and fully informed comparison between the options.*

(Please see 'Forestry' in section 9(i) above that describes the consultation undertaken in relation to the proposed policy. Proposals were subject to targeted engagement. Full public consultation was not undertaken to reduce consultation fatigue. Ministers considered the high volume of NZ ETS related public consultations in train at the time and that sufficient feedback could be obtained through carefully designed targeted engagement processes. This included email questionnaires, discussion with the ETS Technical Advisory Group (forestry stakeholders) and engagement with pan-Māori groups. This is considered reasonable and not inconsistent with principle 9(i).)

Title: Importing $CO_2$ as new mandatory activity in the New Zealand Emissions Trading Scheme

Authoring agency: Ministry for the Environment

Available at: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-importing-co2-as-new-mandatory-activity-in-the-new-zealand-emissions-trading-scheme/

Panel comment: *The QA panel considers it meets the Quality Assurance criteria. The panel found the RIS to be clear and convincing. It presents a well-defined problem statement and objectives, evaluates a suitable range of options, and provides sufficient information on costs and benefits. While the panel noted the limited consultation on the preferred option, it did not consider this to be a material constraint on the overall analysis and advice.*

Title: New Zealand Emissions Trading Scheme market governance

Authoring agency: Ministry for the Environment

Available at: https://www.regulation.govt.nz/publications-and-resources/regulatory-impact-statements/regulatory-impact-statement-new-zealand-emissions-trading-scheme-market-governance/

Panel comment: *The QA panel considers it meets the Quality Assurance criteria. The team assessed this using assessment criteria (complete, convincing, clear & concise, and consulted), for all relevant sections of the report. The team considers that all its feedback was addressed.*

Supplementary Panel comment: *The QA panel considers it meets the Quality Assurance criteria. The case for improved NZ ETS market governance was established in the last version.*

*This version provides a detailed and well justified approach to penalties. Notably, the proposals draw upon, and seek to align with, other penalty regimes, as appropriate.*

*The RIS transparently declares a lack of detailed public consultation on the proposed penalty regime. Relevant advice was proactively released to key stakeholders for feedback. Several government agencies and experts were consulted. The Panel did not feel the lack of public consultation impacted the analysis.*

Title: Adding emitting activities to the New Zealand Emissions Trading Scheme

Authoring agency: Ministry for the Environment

The RIS will be published on the Ministry for Regulation website when the Bill is introduced.

Panel comment: *The QA panel considers it partially meets the Quality Assurance criteria. The Panel considers that the RIS is complete in scope, clearly identifying the policy problem, objectives, options, and key limitations of the analysis. It is well written, readable, and pitched at an appropriate level to support Cabinet decision making. The options analysis and cost-benefit analysis are well developed and provide a sound basis for decision-makers. However, the Panel considers that the absence of consultation on the preferred option is a material limitation. This reduces confidence in the robustness of the analysis and advice. As a result, the RIS can only partially meet the Quality Assurance criteria. This judgement reflects this specific limitation rather than the overall quality of the RIS, which the Panel considers to be high.*

(Please see 'NZ ETS technical amendments' in section 9(i) above that describes the consultation undertaken in relation to the proposed policy.  No public consultation, or targeted engagement has been undertaken to inform the analysis of this proposal. This is owing to the short timeframe between issue identification and Cabinet's policy decisions for the Bill. Due to time constraints, this is considered reasonable and not inconsistent with principle 9(i).)

Title: Supplementary Analysis Report: NZ ETS Settings Review Frequency Authoring agency: Ministry for the Environment

Available at: https://www.regulation.govt.nz/publications-and-resources/regulatory-impact-statements/supplementary-analysis-report-nz-ets-settings-review-frequency/

Panel comment: *The QA panel considers it partially meets the Quality Assurance criteria. The SAR is complete and concise, providing a solid foundation for decision-makers and stakeholders to understand the proposals. The options analysis is generally persuasive and appropriately weighs the key considerations between the Minister's preferred option of biennial ETS settings decisions and the Ministry's preference for retaining the status quo. The panel noted that while targeted engagement was undertaken, the SAR does not fully meet the consultation requirements. Timing constraints precluded full public consultation, and the panel assessed that the limited, targeted engagement was likely insufficient to capture representative feedback across the breadth of stakeholder and iwi/Māori perspectives. However, the SAR transparently acknowledges these constraints.*

(Please see 'Efficiency' in section 9(i) above that describes the consultation undertaken in relation to the proposed policy. Full public consultation on the proposal was not undertaken given the time constraint to meet the legislative timeline, resulting in approximately one week for rapid engagement. As a result, public consultation was not available and instead, six stakeholders were consulted. Due to time constraints, this is considered reasonable and not inconsistent with principle 9(i).)

**Overall:** The RISs and supplementary analysis referred to above demonstrate that the proposals in the Bill were carefully evaluated, including the issues concerned, the available options (including non-legislative options where relevant) and the likely impacts on affected parties. While panel assessments identified some limitations, these do not affect the conclusion that the Bill is not inconsistent with principle 9(j).

## Good law-making: 9(k)

| **The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The Bill includes a range of amendments to be implemented across the climate change system, including through functions undertaken by MfE (that will be transferred to MCERT from 1 July 2026), MPI, the Environmental Protection Authority (EPA), the Financial Markets Authority (FMA) and the Climate Change Commission. Implementation arrangements have been considered and draw on existing statutory frameworks, agency functions and operational systems, while recognising that some proposals will require phased implementation or further regulations at a later stage.

Implementation of the adaptation planning proposals is intended to build on existing local government planning and decision-making frameworks rather than create a wholly new delivery system. Priority locations for adaptation plans are expected to be identified through spatial planning processes, and territorial authorities will be responsible for developing adaptation plans for those locations. Detailed process and content requirements will be set through regulations, including requirements relevant to consultation, option assessment and communication, to support effective and consistent implementation over time. Existing adaptation plans may also count as plans under the Act, if they meet the minimum requirements.

For the market governance proposals, implementation will use existing institutional arrangements across MfE, the EPA and the FMA. The Bill introduces new reporting, record-keeping and information-gathering provisions, with monitoring and enforcement responsibilities allocated across those agencies in a way that aligns with their existing functions and enforcement tools.

Implementation is intended to be a phased approach – initial monitoring and enforcement costs will be absorbed within existing baselines, with MfE establishing a small compliance and enforcement function as market monitor. However, MfE may delegate these functions to the EPA once Register reporting is implemented, which may be more appropriate given the EPA's operational role in managing the Register. The FMA will be the regulator for market misconduct. Until Register reporting is implemented, government's ability to identify and respond to non-compliance and market misconduct will be limited due to limited visibility of trade information. There is scope to strengthen compliance effort once full access to trading information becomes available, or sooner if market misconduct risks become apparent to justify this. MfE will monitor the effectiveness of this phased implementation and compliance approach through the initial phases of the policy implementation.

The phased approach supports practical implementation from commencement by providing for a limited initial monitoring and compliance capability, while allowing that capability to be strengthened later when fuller trading information becomes available or emerging risks indicate that greater compliance action is warranted.

## Good law-making: 9(l)

| **Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The RISs include qualitative and some quantitative estimates of costs and benefits associated with the proposals.

The proposals aim to:

- support coordinated and transparent adaptation planning
- improve market transparency and integrity
- reduce administrative burden and regulatory complexity
- streamline duplicative or complex processes
- support investment certainty.

Legislating requirements for adaptation plans alongside other natural hazard management changes will support local government to deliver on their core functions of promoting the wellbeing of communities and control the use and effects of land for the avoidance or mitigation of natural hazards.[2]

Councils will incur some costs to develop and implement adaptation plans, although these are expected to vary depending on existing capability, exposure to climate risks and the scale of planning and engagement required. Costs may include staff time, technical analysis, engagement and integration with existing planning and infrastructure processes.

[2] Section 10 ((1) (b) of the LGA 2002; Sections 30 and 31 of the RMA 1991

The proposals are intended to clarify and support councils to deliver on their pre-existing obligations to manage natural hazard risk. There is broad support within local government for clarifying these responsibilities in legislation.

The New Zealand Unit (NZU) market has grown significantly and now has approximately 13,572 accounts with total holdings of 146 million NZUs, worth more than $9.2 billion NZD based on recent NZU prices.[3] Officials also estimate that 20 to 30 million NZUs are exchanged each year on privately operated trading platforms, with an annual trading value of around $1 to $2 billion NZD. Given the scale and value of the NZU market, current transparency and market conduct settings do not sufficiently manage material risks. This creates risks to market efficiency, confidence and trust.

The Bill would introduce proportionate market governance requirements to improve transparency and support good market conduct, including reporting, record-keeping and information-gathering requirements. These measures may impose some additional costs to unit market participants, the monitor and regulator. However, those costs are expected to be outweighed by the benefits of protecting the integrity and effective functioning of the NZU market. Compliance will be supported through monitoring, reporting and a penalty regime designed to be administratively simple and to align with the existing functions of MfE, the EPA and the FMA. Initial monitoring and enforcement costs will be met within existing agency baselines.

For the remaining proposals related to improving efficiency and effectiveness, the available evidence indicates that the benefits of the proposed legislation will outweigh the expected costs.

**Overall:** The available regulatory analysis supports the conclusion that the Bill's expected benefits are likely to exceed its expected costs. The proposals did not meet the threshold for independent call-in by the Ministry for Regulations' RIA team, and the RISs and supplementary analysis identify a mix of qualitative and some quantitative benefits and costs that generally support positive net benefits across the Bill. While panel assessments identified limitations in the robustness of some cost-benefit comparisons, particularly for proposals developed under tighter timeframes or with more limited consultation, those limitations were transparently acknowledged and do not affect the overall conclusion that the Bill is not inconsistent with principle 9(l).

## Good law-making: 9(m)

| **Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

[3] Officials estimate that there are a material number of inactive accounts (i.e. dormant for > 3 years) in the Register, this figure includes those accounts.

The Bill introduces targeted policy changes on climate adaptation planning, market governance of the NZ ETS market, industrial allocation and carbon removal activities. It also streamlines some processes and obligations to reduce duplication and support the Act's efficient operation and reduces complexity and gives forestry participants in the NZ ETS greater flexibility.

The Bill includes changes to:

- require local government to undertake adaptation planning in priority locations and provide strategic planning and coordination of action and investment in a cost-effective way over the long term
- introduce new reporting and market conduct requirements for the NZ ETS market, to improve market transparency and integrity and support market confidence
- amend requirements related to emissions reduction plans (ERPs), national adaptation plans (NAPs) and consultation requirements, to simplify requirements where they are complex or inefficient
- amend the timing and sequencing of the Climate Change Commissions' reports and advice, and the Minister's decisions and responses, to streamline processes and reporting requirements where these have proved duplicative or difficult to operate efficiently
- create a general power for the Minister of Climate Change to add mandatory non-agricultural activities to the NZ ETS by Orders in Council, to provide a more efficient and responsive mechanism to keep NZ ETS coverage aligned, as closely as practicable, with new sources of emissions as they emerge
- change the annual NZ ETS unit limits and price control settings process to a biennial process, to support market stability and administrative efficiency
- amend industrial allocation settings to reduce unintended disincentives for investment in emissions reductions and provide greater certainty for firms that receive industrial allocation
- expand opportunities for additional carbon removal activities to be recognised and rewarded in the NZ ETS in future
- make importing carbon dioxide a mandatory activity under the NZ ETS
- reduce complexity for forestry participants and provide greater regulatory flexibility for managing forest participant deadlines following significant disruptions, such as a cyclone
- make minor and technical changes to support the operation of the NZ ETS.

This approach helps ensure that regulatory intervention is no more than necessary to achieve policy objectives.

**Overall:** The Bill represents a proportionate response to a number of specific identified issues and aims to improve the overall efficiency and effectiveness of the Act. As reflected in the RISs and supplementary analysis referred to in section 9(j), the policy proposals were assessed against alternative options, including non-legislative options where relevant. The preferred options were progressed because they were considered the most effective, efficient and proportionate responses to the identified problems. In some cases, panel assessments noted that compressed timeframes or limited consultation constrained the robustness of option comparisons, but those limitations were transparently acknowledged and do not affect the overall conclusion that the Bill is not inconsistent with principle 9(m).

## Rule of Law: 9(a)(i)

| **The law should be clear and accessible** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The Bill establishes clear statutory requirements and processes. For adaptation planning, the Bill includes requirements for local authorities to prepare adaptation plans for priority locations. This will support strategic coordination of adaptation actions and investments, communicate risk management approaches and support consistent, transparent and accountable adaptation planning.

In relation to market governance, the Bill introduces market governance provisions that set clear reporting and targeted market conduct obligations for unit market participants. These provisions will improve market operations and efficiency by increasing the transparency of trading information, supporting informed trading decisions and enabling market monitoring to improve market integrity.

Obligations are defined in legislation and supported by structured regulatory frameworks and improve clarity and accessibility for regulated parties.

The legislation will be published on the New Zealand Legislation website.

## Rule of Law: 9(a)(ii)

| **The law should not adversely affect rights and liberties, or impose obligations, retrospectively** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The Bill does not affect rights, freedoms, or impose obligations retrospectively. The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 vetting process for the Bill is underway and the Ministry of Justice (MoJ) will produce a Bill of Rights compliance report.

Advice provided to the Attorney-General by MoJ, or a section 7 report of the Attorney-General, is generally available on MoJ's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at: https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/

## Rule of Law: 9(a)(iii)

| **Every person is equal before the law** |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The Bill does not impose new legal obligations except for those in relation to the new market governance provisions as described below. These are not inconsistent with principle 9(a)(iii).

The market governance provisions in the Bill apply legal obligations and enforcement mechanisms consistently across regulated participants.

Market governance provisions establish clear requirements for record keeping and conduct, including prohibitions on price manipulation and misleading behaviour. The penalty regime is structured and applies consistently across comparable circumstances, including administrative penalties, infringement offences, civil pecuniary penalties and criminal offences.

Safeguards are included to support fairness and equal treatment and uphold the principles of natural justice, including provisions that penalties should not apply where non-compliance occurs without fault, and rights of review and appeal to the courts. These features help ensure that like cases are treated similarly and that the law is applied in a consistent and non-arbitrary manner.

## Rule of Law: 9(a)(iv)

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| **There should be an independent impartial judiciary** | |
| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

For the market governance proposals, the Bill preserves the role of an independent and impartial judiciary by providing rights of review and appeal to the District Court and High Court. It also links certain market conduct provisions to civil liability under the Financial Markets Conduct Act 2013 and creates a criminal offence for price manipulation under the Climate Change Response Act. Statutory defences, protections against double jeopardy and safeguards for conduct occurring without fault support fair and independent judicial determination of liability.

## Rule of Law: 9(a)(v)

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| **Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion** | |
| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

In relation to market governance, the Bill provides for legal rights and liabilities to be determined through clearly defined statutory obligations, contraventions and penalty provisions, rather than broad administrative discretion. The Bill specifies the relevant obligations and resultant penalties of non-compliance in legislation. Safeguards include "no fault" protections for administrative penalties and infringement offences, statutory defences for civil liability penalties and criminal offences and protections against double jeopardy. Rights of review and appeal to the District Court and High Court provide further oversight. Together, these features support predictable and consistent application of the law.

## Liberties: 9(b)

| **Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The Bill does not unduly diminish a person's liberty or property rights.

Where obligations are imposed, including information-provision requirements and compliance obligations, these are reasonable and proportionate to support effective regulation of the NZ ETS market and improve market transparency and integrity. Safeguards include rights of review and appeal, limits on enforcement powers and privacy protections. For example, any counterparty information requested by the market monitor will be anonymised, while FMA may request non-anonymised information for its follow-up investigations. The Privacy Commissioner was consulted and MfE completed a privacy impact analysis. The Privacy Commissioner confirmed that the mitigations were sufficient to manage privacy risk.

## Taking of property: 9(c)

**Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-**

- **there is a good justification for the taking or severe impairment; and**
- **fair compensation for the taking or severe impairment is provided to the owner; and**
- **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**

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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |

The Bill does not provide for compulsory acquisition of property.

## Taxes, fees and levies: 9(d)

| **The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |
| The proposal to make importing carbon dioxide a mandatory activity under the NZ ETS does not appear to be inconsistent with section 22(a), because it would not create a new tax, fee or levy outside Parliamentary authority. Instead, it would extend the existing NZ ETS framework to imported carbon dioxide so that imported and domestically supplied carbon dioxide is treated consistently. The Bill's other proposals do not create or amend any powers to impose a tax, fee or levy. | |

## Taxes, fees and levies: 9(e)

| **Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |
| There are no taxes, fees or levies associated with the proposed Bill. | |

## Taxes, fees and levies: 9(f)

| **Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—**<br>• **the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and**<br>• **the costs of efficiently achieving the objective or providing the function** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |
| There are no taxes, fees or levies associated with the proposed Bill. | |

## Role of courts: 9(g)

| **Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation** | |
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| **Inconsistency identified?** | NO |

| Summary of agency analysis |
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| The Bill preserves the courts' constitutional role of interpreting legislation by enabling courts to determine the meaning and application of statutory provisions through review and appeal mechanisms. These ensure that the interpretation of the law remains a matter for the courts. |

## Role of courts: 9(h)

| **Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review** | |
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| **Inconsistency identified?** | NO |
| **Summary of agency analysis** | |
| Administrative powers in the Bill are clearly defined in legislation, including powers relating to information gathering, reporting requirements, enforcement and regulation making. These powers are subject to appropriate safeguards and oversight, including rights of review and appeal to the courts. This helps ensure that decisions affecting rights and obligations are not exercised without oversight.<br><br>This includes the proposed power to amend Schedule 3 by Order in Council to add new mandatory non-agricultural activities to the NZ ETS. While this power may in future extend statutory obligations to additional activities, it is limited in scope and purpose and any exercise of the power would require a further policy decision, supporting analysis and the making of regulations through the usual Order in Council process. | |

## Additional information

| **Relevant publicly available inquiry, review, or evaluation reports** |
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| Title: A proposed approach for New Zealand's adaptation framework<br>Authoring body: Independent Reference Group on Climate Adaptation<br>Date of report: July 2025<br>Available at: https://environment.govt.nz/assets/publications/climate-change/A-proposed-approach-for-New-Zealands-adaptation-framework-final.pdf<br><br>Title: Inquiry into climate adaptation<br>Authoring body: Finance and Expenditure Committee<br>Date of report: September 2024<br>Available at: https://selectcommittees.parliament.nz/view/SelectCommitteeReport/73e0779f-249d-4067-9ec8-08dce18146d9<br><br>Title: Investment in natural hazards mitigation: Forecasts and findings about mitigation investment<br>Authoring body: NZIER |

Date of report: August 2020
Available at: https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/$file/NZIER-Natural-hazards-mitigation-report-2020.pdf

Title: National infrastructure exposure & property isolation assessment
Authoring body: Urban Intelligence
Date of report: June 2024
Available at: https://www.climatecommission.govt.nz/our-work/adaptation/nappa/nappa-2024

## Relevant international treaties, standards and obligations

International obligations

The Bill has been assessed as consistent with New Zealand's international climate change obligations.

MfE consulted with the Ministry of Foreign Affairs and Trade (MFAT) on the policies in the Bill. MFAT confirmed that the proposals are consistent with New Zealand's obligations under the Paris Agreement, including commitments relating to adaptation planning.

Treaty of Waitangi obligations

Engagement on the Bill's proposals was tailored to each workstream. Targeted engagement was undertaken with Māori forestry stakeholders on the forestry proposals. Targeted engagement was also undertaken with pan-Māori groups (National Iwi Chairs Forum (Pou Take Āhuarangi), Te Tai Kaha, post-settlement governance entities, groups yet to settle historical Treaty claims) primarily in relation to the adaptation (including through the wider National Adaptation Framework engagement) and efficiency workstreams. For other workstreams, targeted engagement with iwi/Māori was more limited due to timeframes and/or the technical or enabling nature of proposals. Further input is expected through the Select Committee process and, where relevant, subsequent implementation processes.

In developing the policy for the Bill, Ministers and officials considered the potential interests and effects of the proposals for Māori throughout the analysis. The proposals are consistent with the government's Treaty of Waitangi obligations.

New Zealand Bill of Rights Act 1990

MoJ's Offence and Penalty Vetting team was consulted on the development of the market governance penalty regime. Market participants will be required to record some additional trading information in the Register. The requirements are reasonable and proportionate and are limited to what is necessary to achieve the policy objective of improving market operations and efficiency by improving the transparency of trading information, supporting informed trading decisions and improving market integrity.

The Bill will be subject to the normal BORA vetting process.

Privacy Commissioner

The Privacy Commissioner was consulted on the privacy impacts of the new market governance provisions and MfE completed a privacy impact analysis.

The Privacy Commissioner considered the scope of personal information collected and stored as part of the market governance provisions to be very limited and the mitigations proposed were sufficient to manage privacy risk.

Legislation Design and Advisory Committee

The Legislation Design and Advisory Committee provided feedback on aspects of the Bill, including the market governance penalty regime, the territorial scope for market governance provisions, the addition of new mandatory activities to the NZ ETS and streamlining processes for amendments to Emissions Reduction Plans. Their feedback was considered during policy development.

## Departures from the Legislation Guidelines

No departures from the Legislation Guidelines have been identified for the purposes of this summary.

## Other unusual provisions or features

The Bill includes a power to amend Schedule 3 by Order in Council to add new mandatory non-agricultural activities to the NZ ETS. This is a delegated power but is limited in scope to non-agricultural activities and is intended to provide a more efficient mechanism to maintain alignment between NZ ETS coverage and new sources of emissions as they emerge. The power would not by itself bring any activity into the NZ ETS without a future policy decision and Order in Council, and any future use of the power would require further analysis and consultation at that time.