

# New Zealand Emissions Trading Scheme

The information provided is intended to provide general information on the New Zealand Emission Unit Register. Please note that the information provided does not replace or alter the laws of New Zealand and other official guidelines or requirements, and the processes set out in this document are subject to possible change.

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# Agenda

- Government agencies and the NZ ETS
- Overview of the Unit Register
- Participants
- Key Dates
- Emissions Returns
- Tax Treatment
- Data Retention
- Compliance and Enforcement



# Government agencies and the NZETS

- **Ministry for the Environment**
  - Policy design of the NZETS
  - Regulations for SEIP and Waste sectors, Removals
- **Ministry for Economic Development**
  - Administration of the NZETS
  - Emissions Trading Registry
- **Inland Revenue Department**
  - Tax policy
- **Ministry for Agriculture and Forestry**
  - Forestry and Agriculture sectors
- **Ministry of Transport**
  - Liquid Fossil Fuels sector
- **NZ Treasury**
  - Creation of NZ Units and management of Crown accounts
- **Contact Centre:** For more information call 0800 Climate

# Overview of the Unit Register

A fully *electronic* register for the purpose of recording New Zealand's holdings of and transactions of Kyoto units.

The Register:

- Contains information on crown, individuals and entity holding accounts.
- Provides the facility to transfer units between parties, both at home and internationally.
- Communicates with the International Transaction Log (central UN registry).
- Provides the functionality for New Zealand to return its initial assigned amount to the UN, as per the Kyoto Protocol.



# Interface with the New Zealand Emissions Trading Scheme

**The Register will be extended to form the foundation of New Zealand's Emissions Trading Scheme (ETS).**

It currently:

- Records holdings of New Zealand's domestic unit of trade, the New Zealand Unit (NZU).
- Allows trading in NZUs between holding accounts within the Register.

In the future:

- It will facilitate the reporting of emissions by participants.
- It will allow participants to surrender units to meet their obligations.



# Participants – Who is a participant?

- A person who has obligations and/or entitlements under the ETS.

There are two types of participants in the ETS. These are:

| Participants                               | Description  |
|--|--|
| <b>Mandatory participants (Schedule 3)</b> | Are persons carrying out, or about to carry out, an activity listed in <b>Schedule 3</b> . They must <b>notify</b> the Chief Executive (MED) and must be registered as a participant under <b>section 56</b> .                     |
| <b>Voluntary participants (Schedule 4)</b> | Are persons who carry out, or will carry out by the time the registration takes effect, an activity listed in <b>Schedule 4</b> . They may <b>apply</b> to the Chief Executive (MED) to be a participant under <b>section 57</b> . |



# Participants - Liquid Fossil Fuels, Stationary and Industrial Processes Sectors

| Sector   | Mandatory participant<br>(Schedule 3)  | Voluntary participant<br>(Schedule 4)  |
|--|--|--|
| <b>Liquid fossil fuels<br/>(and opt-in for<br/>obligation jet fuel)</b>                  | Importer/removal from refinery   | Purchaser of > 10m litres of jet fuel per year   |
| <b>Stationary energy<br/>(and opt-in for<br/>purchasers of coal and<br/>natural gas)</b> | Importing and mining coal or natural gas, using geothermal fluid, combusting used oil, waste oil, used tyres, or waste, refining petroleum | Purchaser of >250,000 tonnes of coal per year from miner<br>Purchaser of > 2 Petajoules of natural gas per year from miner |
| <b>Industrial processes</b>  | Producing iron or steel, aluminium, clinker or burnt lime, glass using soda ash, and gold  | n/a  |



# Participants – Key Dates for Stationary Energy and Industrial Processes

| Date   | Action  |
|--|---|
| <b>2009</b>                                  |   |
| 1 January 2009                               | SEIP sectors <b>(Voluntary)</b> enters the Emission Trading Scheme. Registration open.  |
| <b>2010</b>                                  |   |
| 1 January 2010<br><br>Within 20 working days | SEIP sectors <b>(Mandatory)</b> enter the Emission Trading Scheme. Registration open.<br>Persons must notify CE that they are mandatory participants. |
| 31 December 2010                             | End of first compliance period.   |
| <b>2011</b>                                  |   |
| 1 January 2011                               | Commence filing emission returns.   |
| 31 January 2011                              | Deadline for applications to use unique emissions factors.  |
| 31 March 2011                                | Deadline for filing emission returns.   |
| 30 April 2011                                | Deadline for surrendering units.  |



## Participants – Key Dates for Liquid Fossil Fuels

| Date                    | Relevant period            | Action  |
|-------------------------|----------------------------|---|
| <b>2009</b>             |                            |   |
| <b>1 January 2009</b>   | Voluntary Reporting Period | Liquid Fossil Fuels ( <b>Mandatory</b> ) enters the Emissions Trading Scheme.<br>Registration open.<br>Beginning of period for voluntary reporting. |
| <b>31 December 2009</b> | Voluntary Reporting Period | End of period for voluntary reporting.  |



## Participants – Key Dates for Liquid Fossil Fuels (cont'd)

| Date  | Relevant period            | Action   |
|---|----------------------------|--|
| <b>2010</b>   |                            |  |
| <b>1 January 2010</b><br><br>Within 20 working days | Mandatory Reporting Period | Persons must notify CE that they are mandatory participants.<br>Beginning of period for mandatory reporting. |
| <b>1 January 2010</b>                               | Voluntary Reporting Period | Commence filing emission returns for voluntary reporting period, if registered.                              |
| <b>31 March 2010</b>                                | Voluntary Reporting Period | Deadline for filing emission returns for voluntary reporting period, if registered.                          |
| <b>31 December 2010</b>                             | Mandatory Reporting Period | End of period for mandatory reporting.   |



## Participants – Key Dates for Liquid Fossil Fuels (cont'd)

| Date                    | Relevant period            | Action   |
|-------------------------|----------------------------|--|
| <b>2011</b>             |                            |  |
| <b>1 January 2011</b>   | Mandatory Reporting Period | Commence filing emission returns for mandatory reporting period.     |
|                         | Compliance Period          | First compliance period begins.                                      |
| <b>31 March 2011</b>    | Mandatory Reporting Period | Deadline for filing emission returns for mandatory reporting period. |
| <b>31 December 2011</b> | Compliance Period          | End of first compliance period.                                      |
| <b>2012</b>             |                            |  |
| <b>1 January 2012</b>   | Compliance Period          | Commence filing emission returns for first compliance period.        |
| <b>31 March 2012</b>    | Compliance Period          | Deadline for filing emission returns for first compliance period.    |
| <b>30 April 2012</b>    | Compliance Period          | Deadline for surrender of units.                                     |



# Participant Obligations - Overview of the participant registration process

You are not required to register as a participant until your sector enters the ETS.

Once your sector enters the ETS, and you are required to or wish to participate then you must:

| Steps  | Description   |
|--------|---|
| Step 1 | Apply to open a holding account in the Register (if you do not already have one); and |
| Step 2 | Register as a participant; and  |
| Step 3 | File an emissions return; and   |
| Step 4 | Surrender or receive units.   |

**IMPORTANT:** Mandatory participants (for Schedule 3 activities) have 20 working days from the date their sector enters the scheme to notify the Chief Executive (MED) that they are carrying out the activity.



# Participant Obligations

## Step 1: Apply to open a holding account in the Register

Participants must have a holding account. Units required to be surrendered or entitlements to units will be carried out in this holding account. This holding account must be opened in the same name(s) as the participant's full legal name(s).

| Steps         | Description   |
|---------------|---|
| <b>Step 1</b> | Request to register as a user at <a href="http://www.eur.govt.nz">www.eur.govt.nz</a>   |
| <b>Step 2</b> | You will receive email confirmation from the Registry that your user log on request has been approved.  |
| <b>Step 3</b> | Using your user name and password apply on-line to open a holding account at <a href="http://www.eur.govt.nz">www.eur.govt.nz</a> .   |
| <b>Step 4</b> | Nominate on-line up to 3 authorised representatives who will have authority to operate the holding account on behalf of the account holder.   |
| <b>Step 5</b> | Submit your on-line holding account application.  |
| <b>Step 6</b> | Complete the account holder declaration form – sent to you on completion of your on-line application. Return the completed form to the Registrar by email or fax.                       |
| <b>Step 7</b> | You will receive an email confirmation that your holding account has been opened once the Registrar is satisfied that your application is complete and meets the relevant requirements. |



# Participant Obligations

## Step 2: Register as a participant:

| Steps         | Description   |
|---------------|---|
| <b>Step 1</b> | Complete the paper-based participant registration form available (upon entry of sector) at <a href="http://www.eur.govt.nz">www.eur.govt.nz</a>   |
| <b>Step 2</b> | The participant registration process requires you to supply the: <ul style="list-style-type: none"><li>• Full legal name of each person registering as a participant.</li><li>• Details of the activity that is being carried out or will be carried out by the time registration takes effect.</li><li>• Contact details for notices issued by the Chief Executive.</li><li>• Holding account number (from Step 1).</li><li>• Signature of a director or executive officer.</li></ul>  |
| <b>Step 3</b> | The CE will notify the contact person listed in your application of: <ul style="list-style-type: none"><li>• The fact that the participant name(s) and activity have been entered in the participant register; and</li><li>• The date that the registration will take effect.</li></ul> <p><b>NOTE:</b></p> <ul style="list-style-type: none"><li>• Where two or more persons <b>jointly</b> carry out the relevant activity, they are together the “participant”</li><li>• Persons carrying out <b>Parts 3 and 4 of Schedule 4 (Liquid Fossil Fuels and Stationary Energy)</b> become participants one year after their names are added to the Participant Register)</li></ul> |



# Participant Obligations

## Step 3: File an Emissions Return

Participants are required to file an annual emissions return. The return filing period runs from **1 January and 31 March** of each year.

### The return must:

- Report on those activities that you have been registered for as a participant and carried out in the previous calendar year.
- Contain your **“own”** assessment as to your liability to surrender units or receive units. This assessment must be made in accordance with any methodologies, standards and emission factors specified in regulation.
- Include the participant’s signature.

### (1) **Unique Emission Factor (UEF) Applications:**

Applications to use a UEF for a year must be submitted by 31 January (draft regulations) of the following year.



# Participant Obligations

## Step 4: Surrender or receive Units

- Surrender units between filing your emissions return and 30 April.
- Must hold sufficient **eligible** units to meet surrender obligations by due date.

| Eligible units for meeting surrender obligations |   |
|--|---|
| Units  | Eligibility   |
| New Zealand Units (NZUs)                         | <ul style="list-style-type: none"><li>• Some restriction on units allocated under a forestry allocation plan (34m units relating to the period 1 January 2013 to 31 December 2021 can not be used before 1 January 2013 or any later date specified in the plan).</li></ul>   |
| Assigned Amount Units (AAUs)                     | <ul style="list-style-type: none"><li>• AAUs issued by NZ under the Kyoto Protocol have no limitation.</li><li>• AAUs issued by other countries can also be surrendered, subject to meeting certain criteria. This criteria will be set in regulation.</li><li>• AAUs issued by other countries during 2008-2012 can not be surrendered to cover emissions that occur after the first commitment period (i.e after 31 December 2012).</li></ul> |



# Participant Obligations (cont'd)

## Step 4: Surrender or receive Units

| Eligible units for meeting surrender obligations   |   |
|--|---|
| Units  | Eligibility   |
| <ul style="list-style-type: none"><li>• Certified Emission Reduction Units (CERS),</li><li>• Emission Reduction Units (ERUs),</li><li>• Removal Units (RMUs)</li></ul> | <ul style="list-style-type: none"><li>• Can be used to meet surrender obligations, except for CERS and ERUs arising from nuclear projects .</li></ul> |
| <ul style="list-style-type: none"><li>• Temporary Certified Emission Reduction Units (tCERS),</li><li>• Long-term Certified Emission Reduction Units (ICERS)</li></ul> | <ul style="list-style-type: none"><li>• Can not be used to meet surrender obligations.</li></ul>  |



# Participant Obligations

## Data Retention

- Keep sufficient records (i.e. documents, data and records that supports your calculations) to enable verification of your:
  - activities
  - resulting emissions or removals, or other information in an emissions return
- Records must be kept for 7 years



# Participant Obligations

## Compliance and Enforcement

- Self assessment model (like tax system)
  - Department can default assess or amend assessments;
  - Department's assessment can be reviewed, then appealed
- There are both civil and criminal penalties for individuals and body corporates under the Act. (sections 129 -143).
  - Civil penalties – for failure to surrender or repay units.

May be reductions in penalties of up to 100% if:

- voluntarily disclose failure to surrender or repay units before receiving a penalty notice; or
- voluntarily disclose incorrect information in an return, or failure to file returns before investigation started; or
- reasonable (albeit incorrect) view based on information available at time of filing of return.

- Criminal offences – breach of obligations imposed by the Act.



# Participant Obligations

## Summary of civil and criminal penalties

| Nature of Offence   | Penalty   |
|---|---|
| <b>Civil:</b>   |   |
| <ul style="list-style-type: none"><li>• Fails to surrender or repay units by due date</li></ul>   | <ul style="list-style-type: none"><li>• Must surrender and/or repay the outstanding units; and</li><li>• Pay an excess emissions penalty of \$30 per outstanding unit.</li></ul>                            |
| <ul style="list-style-type: none"><li>• Fails to surrender and repay units by due date <u>and</u> convicted of an offence of knowingly failing to comply with obligations</li></ul> | <ul style="list-style-type: none"><li>• May be liable to surrender (or repay) <b>double</b> the number of units that are outstanding; and</li><li>• Further penalty of \$30 per outstanding unit.</li></ul> |
| <ul style="list-style-type: none"><li>• Interest</li></ul>  | <ul style="list-style-type: none"><li>• Accrues until penalty paid in full and associated surrender or repayment obligations met in full.</li></ul>   |



## Participant Obligations (cont'd)

| Nature of Offence  | Penalty   |
|--|---|
| <b>Criminal:</b>   |   |
| <p><b>Without reasonable excuse;</b> fails to:</p> <ul style="list-style-type: none"> <li>• Collect data or other information, calculate emissions or removals, and keep records</li> <li>• Register as a participant</li> <li>• Submit an emissions return</li> <li>• Retain records (i.e. 7 years)</li> <li>• Notify the CE when required to do so.</li> </ul> | <ul style="list-style-type: none"> <li>▪ Fine up to: <ul style="list-style-type: none"> <li>–1st offence - \$8,000</li> <li>–2nd offence - \$16,000</li> <li>- Every subsequent offence - \$24,000</li> </ul> </li> </ul> |
| <p><b>Without reasonable excuse;</b> fails to:</p> <ul style="list-style-type: none"> <li>• Provide information or documents, or appear before CE in relation to enforcement actions.</li> </ul>   | <ul style="list-style-type: none"> <li>• Up to \$12,000 for individuals</li> <li>• Up to \$24,000 for a body corporate</li> </ul>   |
| <ul style="list-style-type: none"> <li>• <b>Knowingly</b> alter, falsify or provide incomplete or misleading information about any obligations under the scheme, including emissions return.</li> <li>• <b>Wilful</b> behavior to comply with parts of the Act, obstructing officers, etc</li> </ul>   | <ul style="list-style-type: none"> <li>• Up to \$25,000 for individuals</li> <li>• Up to \$50,000 for a body corporate</li> </ul>   |
| <ul style="list-style-type: none"> <li>• <b>Evasion</b> – lies or deliberately fails to meet obligations under the scheme to gain financial benefit or avoid financial loss.</li> </ul>  | <ul style="list-style-type: none"> <li>• Up to \$50,000; and/or</li> <li>• Up to 5 years imprisonment</li> </ul>  |

## Inquiry - sections 93 to 106

- Appointed Enforcement Officers
  - Require information - additional powers to require appearance before officer or district court
  - Power of entry – business hours, reasonable notice
  - Officers have confidentiality obligations - criminal offence to knowingly breach
- Inquiry and verification strategy - develop over time



# Questions



# Thank you

