



Ministry for the
Environment
Manatū Mō Te Taiao

McGuinness Institute title:
[DEV-23-MIN-0087] Late
Payment Penalties and
Industrial Allocation Amendment
Bill – Further Policy Decisions

PROACTIVE RELEASE COVERSHEET

Minister	Hon James Shaw	Portfolio	Climate Change
Name of package	Climate Change Response (Late Payment Penalties and Industrial Allocation) Amendment Bill – proactive release of Cabinet materials	Date to be published	18 October 2023

List of documents that have been proactively released

Date	Title	Author
11 May 2023	2023 Updated Regulatory Impact Statement: Reform of industrial allocation policy in the NZ ETS to address current over-allocation	Ministry for the Environment
12 May 2023	Cabinet paper: Late Payment Penalties and Industrial Allocation Amendment Bill – Further policy decisions	Office of the Minister of Climate Change
18 May 2023	Cabinet Economic Development Committee: Late Payment Penalties and Industrial Allocation Amendment Bill: Further Policy Decisions [DEV-23-MIN-0087]	Cabinet Office
25 May 2023	Cabinet paper: Late Payment Penalties and Industrial Allocation Amendment Bill – Minor policy approval	Office of the Minister of Climate Change
29 May 2023	Cabinet: Late Payment Penalties and Industrial Allocation Amendment Bill – Minor policy approval [CAB-23-MIN-0201]	Cabinet Office
3 August 2023	Cabinet paper: Further policy proposals to amend the Climate Change Response (Late Payment Penalties and Industrial Allocation) Amendment Bill	Office of the Minister of Climate Change
7 August 2023	Cabinet: Climate Change Response (Late Payment Penalties and Industrial Allocation) Amendment Bill: Further Policy Proposals [CAB-23-MIN-0353]	Cabinet Office



Cabinet Economic Development Committee

Minute of Decision

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Late Payment Penalties and Industrial Allocation Amendment Bill: Further Policy Decisions

Portfolio Climate Change

On 17 May 2023, the Cabinet Economic Development Committee:

Background

- 1 **noted** that the Climate Change Response (Late Payment Penalties and Industrial Allocation) Amendment Bill (the Bill) will amend industrial allocation policy in the New Zealand Emissions Trading Scheme (NZ ETS) and introduce a revised penalty for small forestry participants;
- 2 **noted** that the Bill was introduced in December 2022, had its first reading and was referred to the Environment Select Committee in February 2023;
- 3 **noted** that the Minister of Climate Change is not seeking any changes to the part of the Bill relating to the late payment penalty for small forestry participants;

Eligibility for industrial allocation for existing activities and eligibility for new activities

- 4 **noted** that the eligibility tests for industrial allocation within the Bill mitigate emissions leakage while maintaining the incentive to reduce emissions;
- 5 **noted** that mitigating leakage risk to the degree proposed in clause 15(1)-(3) of the Bill (which proposes updating eligibility thresholds using a more recent carbon price) is inconsistent with wider government attention to meeting emission budgets and targets, and imposes fiscal costs as it is expected to lead to increases in industrial allocation;
- 6 **agreed** to amend the Bill to:
 - 6.1 retain the eligibility thresholds currently prescribed in the Climate Change Response Act 2002 (the Act) by removing clause 15(1)-(3);
 - 6.2 remove the Bill's requirement for new activities to be tested against the criteria in section 84C of the Act;
 - 6.3 not require the Minister to retest the eligibility of currently eligible activities;

- 7 **noted** that the changes proposed above will support decarbonising investments and allow new activities to be eligible, but also rebalance industrial allocation settings towards supporting the transition to a low emissions economy;

Including additional sources of emissions costs

- 8 **noted** that the Minister of Climate Change has been made aware of two emissions sources (combusting used tyres and consuming CO₂) that have an associated emissions price but cannot be counted within eligibility tests and allocative baselines;
- 9 **noted** that these omissions result in inconsistent treatment of priced emissions sources eligible for allocation, and could disincentive decarbonisation investments;
- 10 **agreed** that combusting used tyres and consuming CO₂ be counted in industrial allocation settings through an amendment to the Bill, where an emissions price is faced;

Starting year for Electricity Allocation Factor recommendations

- 11 **noted** that the Bill requires the Electricity Authority to recommend a value for the electricity allocation factor by the end of July each year;
- 12 **noted** that the Electricity Authority has advised that it is not possible for them to meet that requirement if the Bill is enacted any time in July 2023, due to the complexity of the modelling task;
- 13 **noted** that officials will recommend to the Select Committee that the requirement on the Electricity Authority be delayed until July 2024;

Next steps

- 14 **agreed** that the above proposals be included in the departmental report recommendations to the Select Committee for inclusion in the revision-tracked version of the Bill or via Supplementary Order Paper (depending on timing).

Janine Harvey
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon Kiri Allan
Hon Damien O'Connor
Hon David Parker
Hon Peeni Henare
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Hon Barbara Edmonds
Hon Dr Duncan Webb
Hon Rino Tirikatene
Hon Dr Deborah Russell
Hon Rachel Brooking
Hon Jo Luxton
Hon James Shaw

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

