



Climate Change (General Exemptions) Amendment Order 2010

Anand Satyanand, Governor-General

Order in Council

At Wellington this 23rd day of September 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 60 of the Climate Change Response Act 2002, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister for Climate Change Issues made after complying with the requirements of that section, makes the following order.

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Order

- 1 Title**
This order is the Climate Change (General Exemptions) Amendment Order 2010.
- 2 Commencement**
This order comes into force on 1 January 2011.
- 3 Principal order amended**
This order amends the Climate Change (General Exemptions) Order 2009.
- 4 New clause 3 substituted**
Clause 3 is revoked and the following clause substituted:
- “3 Interpretation**
In this order, unless the context otherwise requires,—
“**Act** means the Climate Change Response Act 2002

“**bobby calf** means a milk-fed calf from a dairy herd that is less than 14 days old

“**company**, in relation to a New Zealand person, has the same meaning as in section YA 1 of the Income Tax Act 2007

“**in New Zealand temporarily**, in relation to goods, means goods whose presence in New Zealand does not exceed a continuous period of 180 days

“**layer hen** means a bird that is kept to produce eggs for sale

“**motor vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998

“**New Zealand person** means—

“(a) a New Zealand citizen; or

“(b) a New Zealand resident within the meaning of section YD 1 of the Income Tax Act 2007; or

“(c) a company that is resident in New Zealand within the meaning of section YD 2 of the Income Tax Act 2007

“**passing through New Zealand**, in relation to an aircraft or a ship, means an aircraft or a ship—

“(a) on a journey from a foreign port to a foreign port; and

“(b) whose presence in New Zealand does not exceed a continuous period of 180 days, whether or not the aircraft or ship is engaged in moving passengers or cargo between ports in New Zealand during that period

“**synthetic fertilisers containing nitrogen** means a nitrogen-containing substance or mix of substances, produced by chemical manufacture,—

“(a) whose main function is to provide nutrients for plants; and

“(b) which is described as, or held out to be for, or suitable for, sustaining or increasing the growth, productivity, or quality of plants or, indirectly, animals through its application to plants or soil.”

5 New clauses 8 to 12 inserted

The following clauses are inserted after clause 7:

“8 Exemption for activity of importing or manufacturing synthetic fertilisers containing nitrogen

A person who carries out the activity of importing or manufacturing synthetic fertilisers containing nitrogen listed in subpart 1 of Part 5 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person imports or manufactures synthetic fertilisers containing nitrogen at a level that does not exceed the annual threshold set out in the Schedule of this order.

“9 Exemption for activity of slaughtering ruminant animals, pigs, horses, or poultry

A person who is the operator of a risk management programme registered under the Animal Products Act 1999 and is not a retail butcher (as defined in section 4(1) of the Animal Products Act 1999) and who carries out the activity of slaughtering ruminant animals, pigs, horses, or poultry listed in subpart 3 of Part 5 of Schedule 3 of the Act is exempt as a participant in respect of the activity except in relation to the slaughter of cattle (other than bobby calves), sheep, deer, goats, pigs, or poultry (other than layer hens).

“10 Exemption for activity of dairy processing of milk or colostrum

A person who carries out the activity of dairy processing of milk or colostrum listed in subpart 3 of Part 5 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person is not required in relation to that dairy processing to have a risk management programme registered under the Animal Products Act 1999.

“11 Exemption for activity of exporting live cattle, sheep, or pigs

A person who carries out the activity of exporting from New Zealand live cattle, sheep, or pigs in accordance with an animal welfare export certificate listed in subpart 3 of Part 5 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person exports from New Zealand live cat-

tle, sheep, or pigs at a level that does not exceed the annual threshold set out in the Schedule of this order.

“12 Exemption for activity of producing eggs

A person who is an operator of a risk management programme registered under the Animal Products Act 1999 and who carries out the activity of producing eggs listed in subpart 3 of Part 5 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the number of the person’s layer hens subject to the risk management programme does not exceed the annual threshold set out in the Schedule of this order.”

6 Exemption for activity of mining coal in form of peat

Clause 8 is renumbered as clause 13.

7 New clauses 14 and 15 inserted

The following clauses are inserted after clause 13, as renumbered by clause 6 of this order:

“14 Exemption for activity of importing sulphur hexafluoride

“(1) A person who carries out the activity (listed in subpart 2 of Part 4 of Schedule 3 of the Act) of importing sulphur hexafluoride, including sulphur hexafluoride contained in goods, is exempt as a participant in respect of the importation of sulphur hexafluoride in any goods that—

“(a) are not unloaded in New Zealand and are destined for a port outside of New Zealand; or

“(b) are in New Zealand temporarily.

“(2) To avoid doubt, for the purposes of subclause (1), **goods** includes bulk shipments of sulphur hexafluoride.

“15 Exemptions for activity of importing hydro fluorocarbons and per fluorocarbons

“(1) A person who carries out the activity (listed in subpart 2 of Part 4 of Schedule 3 of the Act) of importing hydro fluorocarbons or per fluorocarbons, including hydro fluorocarbons or per fluorocarbons contained in goods, is exempt as a participant in respect of the importation of hydro fluorocarbons or per fluorocarbons in—

- “(a) any aircraft or ship with any hydro fluorocarbons or per fluorocarbons contained in any refrigeration system, air conditioning system, or other system if—
 - “(i) the system is integrated with or into the aircraft or ship or relies on the aircraft or ship for its power; and
 - “(ii) the aircraft or ship is—
 - “(A) passing through New Zealand; or
 - “(B) in New Zealand for the purpose of repairing the aircraft or ship; or
 - “(C) part of the armed forces of a State other than New Zealand; or
 - “(D) registered in New Zealand; or
 - “(E) owned by a New Zealand person:
- “(b) any aircraft with any hydro fluorocarbons or per fluorocarbons contained in any refrigeration system, air conditioning system, or other system that is integrated with or into the aircraft or that relies on the aircraft for its power, if the person’s total tonnage of emissions from the importation of any hydro fluorocarbons or per fluorocarbons in those systems (other than those referred to in paragraph (a)) does not exceed the threshold set out in the Schedule of this order:
- “(c) any ship with any hydro fluorocarbons or per fluorocarbons contained in any refrigeration system, air conditioning system, or other system that is integrated with or into the ship or that relies on the ship for its power, if the person’s total tonnage of emissions from the importation of any hydro fluorocarbons or per fluorocarbons in those systems (other than those referred to in paragraph (a)) does not exceed the threshold set out in the Schedule of this order:
- “(d) any other goods if the goods—
 - “(i) are not unloaded in New Zealand and are destined for a port outside of New Zealand; or
 - “(ii) are in New Zealand temporarily; or
 - “(iii) are, if the person is an individual, for the individual’s personal, domestic, or household use or consumption; or

- “(iv) contain any hydro fluorocarbons or per fluorocarbons owing solely to the use of any hydro fluorocarbons or per fluorocarbons to manufacture the goods (for example, insulation foam).”
- “(2) A person who carries out the activity (listed in subpart 2 of Part 4 of Schedule 3 of the Act) of importing hydro fluorocarbons or per fluorocarbons, including hydro fluorocarbons or per fluorocarbons contained in goods, is exempt as a participant in respect of the importation of hydro fluorocarbons or per fluorocarbons in relation to—
- “(a) the gas HFC-245fa/365mfc (including HFC-245fa/365mfc contained in goods) to the extent that the person imports that gas:
- “(b) motor vehicles with any hydro fluorocarbons or per fluorocarbons contained in any system integrated into or powered by those motor vehicles to the extent specified in subclause (3).
- “(3) If subclause (2)(b) applies, a person—
- “(a) is exempt as a participant in respect of the first 100 tonnes of emissions from the motor vehicles in the year of importation, as calculated in accordance with regulations 44M and 44N of the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009; and
- “(b) is a participant in respect of any emissions that exceed the threshold specified in paragraph (a).
- “(4) Despite anything in subclause (1), subclause (1)(a)(ii)(D) and (E) do not apply to an aircraft or a ship the first time it arrives in New Zealand.
- “(5) To avoid doubt, for the purposes of subclause (1)(d)(i) and (ii), **goods** includes bulk shipments of hydro fluorocarbons or per fluorocarbons.”

8 Schedule amended

- (1) The Schedule heading is amended by omitting “cls 4–8” and substituting “cls 4–8, 11–13, 15”.
- (2) The Schedule is amended by omitting “carbon dioxide equivalent” in each place where it appears.

- (3) The Schedule is amended by revoking the item relating to clause 8 and substituting the items set out in the Schedule of this order.

cl 8

Schedule
Amendments to Schedule of principal order

cl 8	Importing or manufacturing synthetic fertilisers containing nitrogen	1 tonne of synthetic fertilisers per annum
cl 11	Exporting live cattle, sheep, or pigs	in the case of cattle, 20 cattle per annum in the case of sheep, 20 sheep per annum in the case of pigs, 20 pigs per annum
cl 12	Producing eggs	2 290 layer hens per annum in the years 2011, 2012, and 2013 and 860 layer hens per annum in the years after 2013, as calculated in accordance with regulation 13 of the Climate Change (Agriculture Sector) Regulations 2010
cl 13	Mining coal in the form of peat	10 000 tonnes of peat per annum
cl 15(1)(b)	Importing hydro fluorocarbons or per fluorocarbons	100 tonnes of emissions from hydro fluorocarbons or per fluorocarbons contained in any system integrated into or powered by aircraft during the year of importation, as calculated in accordance with regulations 44K and 44L of the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009
cl 15(1)(c)	Importing hydro fluorocarbons or per fluorocarbons	100 tonnes of emissions from hydro fluorocarbons or per fluorocarbons contained in any system integrated into or powered by ships during the year of importation, as calculated in accordance with regulations 44K and 44L of the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 January 2011, amends the Climate Change (General Exemptions) Order 2009. The amendments specify exemptions for certain industrial process activities listed in subpart 2 of Part 4 of Schedule 3 of the Climate Change Response Act 2002 and for certain agricultural activities listed in Part 5 of Schedule 3 of the Act.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 24 September 2010.

This order is administered by the Ministry of Agriculture and Forestry and the Ministry for the Environment.
