

Changes to the Emissions Trading Scheme – Fixed Price Option

December 2020

The Government has made changes to New Zealand's Emissions Trading Scheme (ETS) through the Climate Change Response (Emissions Trading Reform) Amendment Act 2020, which became law on 23 June 2020. This guide outlines the changes to the price and availability of the Fixed Price Option (FPO).

What is the Fixed Price Option?

A person required to surrender or repay units under s123(3) or (6), s183A(2)(b) of the Climate Change Response Act 2002 (CCRA), or as a result of submitting an emissions return, may choose to pay a fixed price per unit instead of surrendering or repaying units. This is referred to as the "fixed price option" or FPO.

A summary of the changes:

- The FPO increased from \$25/unit to \$35/unit for emissions and removals in (or attributed to) the 2020 calendar year.
- The FPO is now available for surrenders/repayments arising as a result of an amendment to, or a default assessment of, an emissions return for activities that occurred in the 2020 calendar year or earlier, where a notice under s 123 of the CCRA was issued after the law change on 23 June 2020.
- The last calendar year the FPO will be available will be for those activities taking place in 2020.

When is the Fixed Price Option available?

The FPO is available to meet surrender or repayment obligations until auctioning is introduced to the ETS. The first auction is planned for 17 March 2021, which means the \$35/unit FPO will be available for surrender or repayment obligations for the 2020 calendar year. The FPO of \$25/unit will remain available for emissions or removals that occurred in the 2019 calendar year or earlier.

The \$35 FPO is available for emissions returns which are submitted as a result of a person ceasing to participate in an activity, if the activity ceased during 2020.

What about default assessments and amendments?

The FPO was previously not available for surrenders/repayments arising as a result of an amendment to, or a default assessment of, an emissions return under s 123 of the CCRA. The FPO will now be available for repayment or surrender obligations arising from an amendment or assessment where the notice under s 123 was issued after 23 June 2020. In these circumstances, the FPO of \$25/unit will apply for emissions or removals that occurred in the 2019 calendar year or earlier, and the FPO of \$35/unit will apply for emissions or removals that occurred in the 2020 calendar year.

Participants with surrender/repayment obligations arising as a result of an amendments or default where the notice under s 123 was issued prior to 23 June 2020 will need to source units to meet this obligation, as the FPO was not (and is still not) available for amendments and assessments made before the law changed on 23 June 2020.

Information for forestry participants

Forestry sector activities will generally be treated in the same way as other sectors meaning that the FPO of \$25/unit will apply for surrender/repayment obligations that occurred in (or are attributed to) the 2019 calendar year or earlier, and the FPO of \$35/unit will apply for surrender/repayment obligations that occurred in (or are attributed to) the 2020 calendar year.

However, it is important to note that there are particular rules about attribution to years for activities on post-1989 forest land, where the participant has submitted a net emissions return¹. In such cases, emissions and removals are attributed to a calendar year.

If the net return covers full years then attribution is made by dividing the full amount of the unit obligation by the number of years covered by the emissions return, and attributing that number of units to each calendar year covered by the return.

- For example, for an emissions return filed in 2021 covering the **full years** 2018 – 2020; the \$25 FPO would be available for 2018 – 2019 (or 2/3 of net emission in that return, if the participant opted to use the FPO) and the \$35 FPO for 2020 (1/3 of net emissions).

If the net return includes **part years**, e.g.: October 2019 – February 2020, then the attribution is made by multiplying the full amount of the unit obligation by the % of days covered by the return for each calendar year.

- For example, for an emissions return filed in 2021 covering the part years 1 October 2019 to 31 July 2020, the \$25 FPO would be available for 2019 (or 92 days / 305 days) x the unit obligation, and the \$35 FPO for 2020 (or 213 days / 305 days) x the unit obligation.

There are rules on how to round part units under s178A (1A).

Where to get more information

For further information on how the FPO will work for activities on post-1989 forest land, net emissions returns, de-registrations, or removal of a whole CAA and part removal of a CAA, please contact us.

Forestry participants: 0800 climate or 0800 254 628 (Option 3)

Everyone else: 0800 climate or 0800 254 628 (Option 2) Email: emissionstrading@epa.govt.nz

As with all our guidance, we provide this as information only and recommend you seek independent professional and legal advice regarding your obligations and your specific circumstances under the CCRA.

¹ Some emissions returns, e.g. those under s189 of the CCRA, may be net.