



LEGAL UPDATE

10 June 2011

Do you know where you stand with the Emissions Trading Scheme?

Do you have any forestry on your land? Even if you don't consider yourself to be a forester, you might fall under the Emissions Trading Scheme (ETS) rules. Having one or more hectares of forest on your land could impose significant liabilities on you in the future if you decide to deforest.

This is especially so if your forest is classified as "pre-1990" land. Pre-1990 forest will generally include forests planted prior to 1990, and can include forests that have been felled and replanted after 31 December 1989. If you think you have pre-1990 forest land then you might incur a hefty liability when you come to eventually deforest the land (ie, change the use of the land to something other than forest). But there are some options: you can apply to receive free carbon credits (NZU's) or possibly be exempt from the scheme all together.

FREE NZU'S

If you satisfy the definition of pre-1990 forest land you can apply to receive free credits from the government. Depending on when you purchased your land, you could get up to 60 NZU's per hectare of pre-1990 forest. Currently, NZU's are trading at around \$20 per unit. However, we expect that any liability to the government when you ultimately deforest will far outweigh the benefit you receive from the free allocation of NZU's. Your application for NZU's must be processed by **30 November 2011**.

EXEMPTION

There are a couple of exemptions from the scheme. The main one is if you own less than 50 hectares of forest. If you successfully apply for an exemption, you won't be able to apply for the free credits but you won't have the huge liability when you deforest either. Your application for an exemption must be processed by **30 September 2011**.

If you're not sure about whether to apply for an exemption or an allocation, then ask yourself: what is the best use of my land? If forestry is the best way to utilise the land, then maybe applying for the free credits is the best option. If the land can be better utilised for some other purpose, then applying for an exemption might be the way to go.

If you have post-1989 forest (as opposed to pre-1990 forest) then we can advise you on the opportunities under that regime too.



Written by
Stu Barraclough
Solicitor

DDI: (06) 768-3728
Email: Stu.Barraclough@gqlaw.co.nz

Govett Quilliam
THE LAWYERS