

**Reprint
as at 10 October 2013**



**Climate Change (General
Exemptions) Order 2009**
(SR 2009/370)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of November 2009

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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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry for the Environment.

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Order

- 1 Title**
This order is the Climate Change (General Exemptions) Order 2009.

2 Commencement

This order comes into force on 31 December 2009.

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Climate Change Response Act 2002

calf means a male or female bovine that—

- (a) is under 12 months of age; and
- (b) weighs less than 40 kg at the slaughter point

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

cow means a female bovine with more than 6 permanent teeth

heifer means a female bovine with no more than 6 permanent teeth

milk solids means milk-fat and protein components of raw milk (being untreated milk) from cows, heifers, or goats

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

slaughter point means the final point at which the carcass is weighed before it is—

- (a) broken down into cuts or boneless products; or
- (b) chilled or frozen

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

underground gas storage facility has the meaning given in section 2(1) of the Crown Minerals Act 1991

vealer means a male or female bovine that—

- (a) is under 12 months of age; and
- (b) weighs between 40 kg and 160 kg at the slaughter point.

Clause 3: substituted, on 1 January 2011, by clause 4 of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Clause 3 **bobby calf**: revoked, on 1 January 2013, by clause 4(1) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 3 **calf**: inserted, on 1 January 2013, by clause 4(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 3 **cow**: inserted, on 1 January 2013, by clause 4(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 3 **heifer**: inserted, on 1 January 2013, by clause 4(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 3 **in New Zealand temporarily**: revoked, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Clause 3 **layer hen**: revoked, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Clause 3 **milk solids**: inserted, on 1 January 2013, by clause 4(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 3 **motor vehicle**: revoked, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Clause 3 **passing through New Zealand**: revoked, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Clause 3 **slaughter point**: inserted, on 1 January 2013, by clause 4(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 3 **underground gas storage facility**: inserted, on 24 May 2013, by clause 4 of the Climate Change (General Exemptions) Amendment Order 2013 (SR 2013/198).

Clause 3 **vealer**: inserted, on 1 January 2013, by clause 4(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Exemption for entire activity

4 Exemption for activity of importing coal

A person who is carrying out the activity of importing coal listed in Part 3 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person imports coal at a level that does not exceed the threshold set out in Schedule 1.

Clause 4: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

5 Exemption for activity of using geothermal fluid

A person who carries out the activity of using geothermal fluid for the purpose of generating electricity or industrial heat listed in Part 3 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person uses geothermal fluid for the purpose of generating electricity or industrial heat at a level that does not exceed the threshold set out in Schedule 1.

Clause 5: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

6 Exemption for activity of combusting used oil or waste oil

A person who carries out the activity of combusting used oil or waste oil for the purpose of generating electricity or industrial heat listed in Part 3 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person combusts used oil or waste oil at a level that does not exceed the threshold set out in Schedule 1.

Clause 6: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

6B Exemption for activity of producing iron or steel

A person who carries out the activity of producing iron or steel (listed in subpart 1 of Part 4 of Schedule 3 of the Act) is exempt as a participant in respect of the activity if the amount of the carbon in the materials the person adds to metal for the purpose of producing iron or steel does not exceed the threshold for the activity set out in Schedule 1.

Clause 6B: inserted, on 10 October 2013, by clause 5 of the Climate Change (General Exemptions) Amendment Order (No 2) 2013 (SR 2013/379).

7 Exemption for activity of producing gold

A person who carries out the activity of producing gold listed in Part 4 of Schedule 3 of the Act is exempt as a participant in respect of the activity if the person produces gold at a level that does not exceed the threshold set out in Schedule 1.

Clause 7: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

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 Schedule 1.

Clause 8: inserted, on 1 January 2011, by clause 5 of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Clause 8: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

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 for the slaughter of animals 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 for human consumption of cattle (other than calves and vealers), sheep, deer, goats, pigs, or poultry.

Clause 9: inserted, on 1 January 2011, by clause 5 of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Clause 9: amended, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Clause 9: amended, on 1 January 2013, by clause 5(1) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Clause 9: amended, on 1 January 2013, by clause 5(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

10 Exemption for activity of dairy processing of milk or colostrum

A person who carries out the activity (listed in subpart 3 of Part 5 of Schedule 3 of the Act) of dairy processing of milk or colostrum is exempt as a participant in respect of any of the following that apply:

- (a) dairy processing of milk or colostrum from goats or sheep:

- (b) dairy processing for which the person is not required to have a risk management programme registered under the Animal Products Act 1999:
- (c) dairy processing of milk or colostrum to which paragraphs (a) and (b) do not apply if the person carries out the dairy processing at a level that does not exceed the threshold set out in Schedule 1.

Clause 10: replaced, on 1 January 2013, by clause 6 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

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 cattle, sheep, or pigs at a level that does not exceed the annual threshold set out in Schedule 1.

Clause 11: inserted, on 1 January 2011, by clause 5 of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Clause 11: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

12 Exemption for activity of producing eggs

[Revoked]

Clause 12: revoked, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

12A Exemption for operating remote disposal facilities

- (1) A person who carries out the activity (listed in Part 6 of Schedule 3 of the Act) of operating a disposal facility is exempt as a participant in respect of operating the disposal facility if subclause (2) applies.
- (2) This subclause applies if—
 - (a) the disposal facility has been in operation continuously on and from 31 December 2011; and
 - (b) the disposal facility is not a disposal facility listed in Schedule 2; and

- (c) one of the following applies:
- (i) the disposal facility—
 - (A) is situated in mainland New Zealand; and
 - (B) disposes of less than 1 000 net tonnes of waste per calendar year; and
 - (C) is located 150 km or more from the nearest disposal facility listed in Schedule 2:
 - (ii) the disposal facility—
 - (A) is situated in mainland New Zealand; and
 - (B) disposes of less than 500 net tonnes of waste per calendar year; and
 - (C) is located 75 km or more from the nearest disposal facility listed in Schedule 2:
 - (iii) the disposal facility—
 - (A) is not situated in mainland New Zealand; and
 - (B) is located 25 km or more from mainland New Zealand.
- (3) In this clause,—
- diverted tonnage** and **gross tonnage** have the same meaning as in regulation 11(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009
- mainland New Zealand** means the North Island or South Island of New Zealand
- net tonnes of waste** means gross tonnage minus diverted tonnage of waste.
- (4) For the purpose of determining the distance of a disposal facility that is not listed in Schedule 2 from a disposal facility that is listed in Schedule 2, the following apply:
- (a) the distance is the shortest distance by—
 - (i) road; or
 - (ii) rail; or
 - (iii) road and rail; but
 - (b) if one of the disposal facilities is not located in mainland New Zealand, the distance is the distance by boat between the harbours closest to the disposal facilities.

Clause 12A: inserted, on 1 January 2013, by clause 7 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Exemption for part of activity

13 Exemption for activity of mining coal in form of peat

A person who carries out the activity of mining coal where the volume of coal mined exceeds 2 000 tonnes in a year listed in Part 3 of Schedule 3 of the Act is exempt as a participant in respect of the part of the activity that concerns the mining of coal in the form of peat if the person mines coal in the form of peat at a level that does not exceed the threshold set out in Schedule 1.

Clause 13 clause number: substituted, on 1 January 2011, by clause 6 of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Clause 13: amended, on 1 January 2013, by clause 10 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

14 Exemption for activity of importing sulphur hexafluoride

[Revoked]

Clause 14: revoked, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

15 Exemption for activity of importing HFC-245fa/365mfc

[Revoked]

Clause 15: revoked, on 1 January 2013, by clause 4 of the Climate Change (General Exemptions) Amendment Order (No 2) 2012 (SR 2012/399).

16 Exemption for activity of mining natural gas, other than for export

- (1) This clause applies to a person who carries out the activity (listed in Part 3 of Schedule 3 of the Act) of mining natural gas, other than for export.
- (2) The person is exempt as a participant (to the extent determined under subclause (3)) in respect of the mining of natural gas that is—
 - (a) sold to another person; and
 - (b) used to make natural gasoline.
- (3) If subclause (2) applies, the following formula must be used to calculate the amount of natural gas for which the person is exempt as a participant:

$$G = (m_{cg}/m_c) \times N$$

where—

- G is the amount in tonnes of natural gas for which the person is exempt as a participant
- m_{cg} is the mass fraction of carbon in the natural gasoline that is derived from the natural gas
- m_c is the mass fraction of carbon in the natural gas (as recorded under regulation 16 of the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009
- N is the amount in tonnes of natural gasoline derived from the natural gas.

- (4) The person is exempt as a participant in respect of the injection of natural gas into, or the extraction of natural gas from, an underground gas storage facility if another person is, or has been, liable as a participant for emissions from the natural gas prior to its injection into, or extraction from, (as applicable) the underground gas storage facility.

Clause 16: replaced, on 24 May 2013, by clause 5 of the Climate Change (General Exemptions) Amendment Order 2013 (SR 2013/198).

17 Exemption for activity of operating electrical switchgear that uses sulphur hexafluoride (SF₆)

A person who carries out the activity (listed in subpart 2 of Part 4 of Schedule 3 of the Act) of operating electrical switchgear that uses sulphur hexafluoride is exempt as a participant if the combined sulphur hexafluoride capacity of all of the electrical switchgear operated by the person in a year does not exceed the threshold set out in the Schedule of this order.

Clause 17: inserted, on 1 January 2013, by clause 5 of the Climate Change (General Exemptions) Amendment Order (No 2) 2012 (SR 2012/399).

Schedule 1
**Exemption thresholds for certain
activities**

cls 4–8, 10, 11, 13, 17

Schedule 1 heading: amended, on 10 October 2013, by clause 6(1) of the Climate Change (General Exemptions) Amendment Order (No 2) 2013 (SR 2013/379).

Exemption	Activity	Threshold
cl 4	Importing coal	2 000 tonnes of coal per annum
cl 5	Using geothermal fluid for the purpose of generating electricity or industrial heat	4 000 tonnes of emissions per annum, as calculated in accordance with the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009
cl 6	Combusting used oil or waste oil for the purpose of generating electricity or industrial heat	1 500 tonnes of used or waste oil per annum
cl 6B	Producing iron or steel	100 tonnes of carbon per annum
cl 7	Producing gold	5 000 tonnes of emissions per annum, as calculated in accordance with the Climate Change (Stationary Energy and Industrial Processes) Regulations 2009
cl 8	Importing or manufacturing synthetic fertilisers containing nitrogen	1 tonne of synthetic fertilisers per annum
cl 10	Dairy processing of milk or colostrum	500 tonnes of milk solids 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 13	Mining coal in the form of peat	10 000 tonnes of peat per annum
cl 17	Operating electrical switchgear that uses sulphur hexafluoride	1 tonne of sulphur hexafluoride contained in electrical switchgear

Schedule 1: amended, on 10 October 2013, by clause 6(3) of the Climate Change (General Exemptions) Amendment Order (No 2) 2013 (SR 2013/379).

Schedule 1: amended, on 1 January 2013, by clause 6(1) of the Climate Change (General Exemptions) Amendment Order (No 2) 2012 (SR 2012/399).

Schedule 1: amended, on 1 January 2013, by clause 6(2) of the Climate Change (General Exemptions) Amendment Order (No 2) 2012 (SR 2012/399).

Schedule 1: amended, on 1 January 2013, by section 103 of the Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89).

Schedule 1: amended, on 1 January 2013, by clause 8(1) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Schedule 1: amended, on 1 January 2013, by clause 8(2) of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

Schedule 1: amended, on 1 January 2011, by clause 8(2) of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Schedule 1: amended, on 1 January 2011, by clause 8(3) of the Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339).

Schedule 2

Specified disposal facilities

cl 12A

Schedule 2: inserted, on 1 January 2013, by clause 9 of the Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316).

North Island

<i>Landfill name</i>	<i>Area in which landfill located</i>
Purewa Landfill	Whangarei
Redvale Landfill	Rodney
Whitford Landfill	Manukau
Hampton Downs Landfill	Waikato
Tirohia Landfill	Hauraki
Omarunui Landfill	Hastings
Colson Road Landfill	New Plymouth
Broadlands Road Landfill	Taupo
Bonny Glen Landfill	Rangitikei
Levin Landfill	Horowhenua
Silverstream Landfill	Upper Hutt
Spicer Landfill	Porirua
Southern Landfill	Wellington City

South Island

<i>Landfill name</i>	<i>Area in which landfill located</i>
Eves Valley Landfill	Nelson
Kate Valley Landfill	Hurunui

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10 October 2013

**Climate Change (General Exemptions)
Order 2009**

Specified disposal facilities—*continued*

Redruth Landfill	Timaru
Victoria Flats Landfill	Queenstown Lakes
Green Island Landfill	Dunedin
A B Lime Limited	Southland

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 3 December 2009.

Reprints notes

1 *General*

This is a reprint of the Climate Change (General Exemptions) Order 2009 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Climate Change (General Exemptions) Amendment Order (No 2) 2013 (SR 2013/379)

Climate Change (General Exemptions) Amendment Order 2013 (SR 2013/198)

Climate Change (General Exemptions) Amendment Order (No 2) 2012 (SR 2012/399)

Climate Change Response (Emissions Trading and Other Matters) Amendment Act 2012 (2012 No 89): section 103

Climate Change (General Exemptions) Amendment Order 2012 (SR 2012/316)

Climate Change (General Exemptions) Amendment Order 2011 (SR 2011/362)

Climate Change (General Exemptions) Amendment Order 2010 (SR 2010/339)
