

DRAFT FOR CONSULTATION

Climate Change (Restriction on Civil Proceedings) Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to establish a clear and uniform policy prohibiting tort claims arising from or related to climate change matters, including but not limited to alleged damages, injuries, or losses attributed to greenhouse gas emissions, global temperature changes, or environmental impacts associated therewith. Recognising the complexity of climate change as a global phenomenon influenced by numerous factors beyond the control of any single entity, this Bill seeks to prevent litigation from being utilised to address issues more appropriately resolved through legislative, regulatory, and market-based frameworks.

The intent of this Bill is multifaceted: to promote legal clarity, protect individuals, businesses and governmental entities from unpredictable and potentially boundless liability, and to safeguard the integrity of New Zealand's climate policy framework, particularly the New Zealand Emissions Trading Scheme (**NZ ETS**). The NZ ETS represents a strategy to reduce emissions efficiently through market mechanisms. Permitting tort claims in respect of climate change matters risks distorting the NZ ETS market by introducing uncertainty, undermining investor confidence and creating inconsistent financial incentives that could weaken its effectiveness as a tool for emissions reduction.

Furthermore, this Bill acknowledges that emissions reduction is a focus of worldwide geopolitical negotiation, exemplified by commitments under the Paris Agreement and reinforced through New Zealand's free trade agreement with the European Union. These international frameworks emphasise co-ordinated collective action, and policy alignment over fragmented, adversarial approaches. Allowing tort claims to proliferate could disrupt New Zealand's ability to meet its international obligations and negotiate effectively on the global stage, diverting resources from constructive solutions to protracted litigation.

This Bill does not diminish the importance of addressing climate change or its impacts but asserts that such challenges are best met through comprehensive, science-based public policy, market-driven initiatives like the NZ ETS, technological innovation, and international co-operation. The tort system, with its focus on individualised blame and diffuse causation, is ill-equipped to address a phenomenon of this scale and complexity. By barring such claims, this Bill ensures that efforts remain focused on cohesive, forward-looking strategies rather than litigation that may yield inconsistency and inefficiency.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 states that the Bill comes into force on the day after Royal assent.

Clause 3 sets out that the purpose of the Bill is to expressly abolish any cause of action in tort relating to climate change.

Clause 4 provides for transitional matters. The Bill applies to proceedings commenced on or after the date of commencement; any proceedings not finally determined at the date of commencement are treated as withdrawn.

Clause 5 states that the Bill binds the Crown.

Clause 6 provides that the Act applies, despite any enactment or other rule of law to the contrary, including, without limitation, the decision in *Smith v Fonterra Co-operative Group Ltd* [2024] NZSC 5.

Clause 7 states that there is no general duty in tort to cease materially contributing to damage to the climate system and the adverse effects of climate change.

Clause 8 states that there is no action in tort in respect of climate change harm caused by a climate change related activity.

Joseph Mooney

Climate Change (Restriction on Civil Proceedings) Bill

Member's Bill

Contents

| | | Page |
|--|---|------|
| 1 | Title | 1 |
| 2 | Commencement | 1 |
| Part 1 | | |
| Preliminary provisions | | |
| 3 | Purpose | 2 |
| 4 | Transitional, savings, and related provisions | 2 |
| 5 | Act binds the Crown | 2 |
| 6 | Application of Act | 2 |
| Part 2 | | |
| Substantive provisions | | |
| 7 | No duty to cease contributing to damage to the climate system | 2 |
| 8 | No action in tort in relation to climate change harm | 2 |
| Schedule | | |
| Transitional, savings, and related provisions | | |
| | | 4 |

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Climate Change (Restriction on Civil Proceedings) Act **2025**.
- 2 Commencement**
This Act comes into force on the day after Royal assent.

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is to expressly abolish any cause of action in tort in respect of the direct or indirect effects of climate change.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in the **Schedule** have effect according to their terms.

5 Act binds the Crown

This Act binds the Crown.

6 Application of Act

This Act applies despite any enactment or other rule of law to the contrary (including, without limitation, the decision in *Smith v Fonterra Co-operative Group Ltd* [2024] NZSC 5).

Part 2

Substantive provisions

7 No duty to cease contributing to damage to the climate system

There is no general duty in tort to cease materially contributing to—

- (a) damage to the climate system; or
- (b) the adverse effects of climate change.

8 No action in tort in relation to climate change harm

- (1) No action in tort may be brought in respect of climate change harm caused or alleged to be caused by a climate change related activity.

- (2) In this section,—

climate change harm includes harm constituting or attributable to 1 or more of the following:

- (a) severe weather:
- (b) a change in weather:
- (c) erosion (including coastal erosion, bank erosion, and sheet erosion):
- (d) falling debris (including soil, rock, snow, and ice):
- (e) subsidence:
- (f) inundation (including flooding, overland flow, storm surge, tidal effects, and ponding)

climate change related activity means a commercial or other business activity that contributes to anthropogenic interference with the climate system.

Schedule

Transitional, savings, and related provisions

s 4

1 Proceedings affected by Act

- (1) This Act applies in respect of any proceedings commenced on or after the date of the commencement of the Act (**commencement date**).
- (2) To avoid doubt, **subclause (1)** applies to proceedings that commence on or after the commencement date, but that relate to circumstances, applications, decisions, acts, or omissions that occurred before, on, or after the commencement date.
- (3) Proceedings commenced before the commencement date and not finally determined before that date (including any rehearing, retrial, or appeal) must be treated as withdrawn and must not proceed further.