



Consultation on amendments to the CRC Energy Efficiency Scheme Order 2010

November 2010

Department of Energy and Climate Change
3 Whitehall Place,
London
SW1A 2AW

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This document is also available on the DECC website at:

[http://www.decc.gov.uk/en/content/cms/consultations/crc_amendment/
crc_amendment.aspx](http://www.decc.gov.uk/en/content/cms/consultations/crc_amendment/crc_amendment.aspx)

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Executive Summary

1. The CRC Energy Efficiency Scheme (CRC) is a new mandatory UK-wide scheme that was brought into law via the CRC Energy Efficiency Scheme Order 2010 (SI 2010/768) (the 'CRC Order'). The scheme is designed to incentivise large public and private sector organisations to take up cost-effective energy efficiency opportunities through the application of reputational and financial drivers.
2. This consultation is being undertaken as a result of stakeholder feedback and Government's stated intention to review the operation and design of the scheme. The proposed amendments detailed within this document are primarily focused on extending the introductory phase and postponing the first allowance sale of phase two. This will facilitate future amendments to be made as a result of the broader simplification review. It will also provide participants with an additional year's experience managing compliance and performance within the introductory phase. Other amendments include information disclosures, the treatment of Northern Ireland departments and the updating of a number of references in the original CRC Order.
3. Having considered stakeholder views and published a response, Government will make and lay an Amendment Order before Parliament, the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly via the negative resolution process – with the Order coming into force on 1st April 2011.

Who should read this paper?

4. This consultation may be of interest to businesses, public sector organisations, industry and trade associations, Non-Governmental organisations, charities, individuals and other interested parties.

It is likely to be of special interest to those organisations that have qualified for phase one of the CRC.

How to respond

Comments on the consultation document, draft Amendment Order and Impact Assessment (IA) are welcome. All responses will be considered before final decisions are taken.

Please note that responses must be received by **1700 Friday 17 December 2010**.

Wherever possible, consultees should submit comments by email and clearly state which consultation questions they are addressing – this will assist us in processing responses as efficiently as possible. Responses should be submitted to:

CRC@decc.gsi.gov.uk

Response forms can also be submitted by post to:

Simon Francis, CRC Team, National Carbon Markets, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

Please include the following information in your response:

- Name
- Organisation name
- Email
- Address
- Type of organisation i.e. NGO, individual, business type, public or private sector
- Size of organisation (number of employees)

In order to build up our stakeholder list, your details will be added to our database.

Respondents in Scotland, Wales and Northern Ireland are asked to copy their submission to the appropriate Devolved Administration:

Scotland

By email: crc@scotland.gsi.gov.uk

By Post: Climate Change Division, Scottish Government, 1G Dockside, Victoria Quay, Edinburgh EH6 6QQ

Wales

By email: climate-change@Wales.gsi.gov.uk

By Post: Gareth John, Climate Change and Water Division, Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ

Northern Ireland

By email: climate.change@doeni.gsi.gov.uk

By Post: Aaron Thompson, Climate and Waste Division, 6th Floor, Goodwood House, 44-58 May Street, Belfast, BT1 4NN

Confidentiality statement

5. In line with Government's policy of openness, at the end of the consultation copies of the responses we receive may be made publicly available on request. Requests of this kind should be made to:

CRC Team, National Carbon Markets, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

6. If you do not want your response – including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that will not count as a confidentiality request.
7. Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential.
8. We will summarise all responses and place this summary on our website at http://www.decc.gov.uk/en/content/cms/consultations/crc_amendment/crc_amendment.aspx. This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

Introduction

9. The CRC Energy Efficiency Scheme (CRC) is a mandatory UK-wide scheme introduced in April 2010 which targets unregulated emissions from large public and private sector organisations. It is designed to incentivise the uptake of cost-effective energy efficiency opportunities through the application of additional financial and reputational drivers. Further information on the development of the scheme is available at:

http://www.decc.gov.uk/en/content/cms/what_we_do/lc_uk/crc/policy/policy.aspx

10. In October's Spending Review the UK Government announced that the CRC will be simplified to reduce the burden on businesses, with the first allowance sale for 2011/12 emissions now taking place in 2012 rather than 2011. Revenue from the sale of CRC allowances, totalling £1 billion a year by 2014/15, will be used to support the public finances, including spending on the environment, rather than recycled to participants.

The implications of this announcement for CRC are:

- In order to clarify the price signal to participants and to support the public finances, revenue from allowance sales will not be recycled back to participants by the UK Government.
- The first sale of allowances will take place in 2012 instead of 2011, postponing the financial requirements of the scheme for participants. Participants will therefore be able to purchase allowances to cover their 2011/12 emissions at the end of the 2011/12 compliance year. Further decisions on allowance sales are a matter for the Budget process.
- The Performance League Table will be retained as the main reputational driver within the scheme, with the metric weightings and publication dates as envisaged in the current legislation (including the October 2011 table).

The CRC scheme is a joint scheme between the UK Government and the Devolved Administrations and revenue recycling is a matter for all the Devolved Administrations to review following the UK Government's announcement.

11. This consultation has been prepared in response to recent stakeholder feedback about the complexity of the scheme. The majority of the issues currently under review would require additional Parliamentary time, in the form of an affirmative resolution, to implement. The current timescales for the start of the CRC's second

phase are such that insufficient time exists to action significant changes before April 2011 – the default start of phase two. This consultation is therefore primarily focused on postponing the start of the second phase, in order to provide a window in which to complete the simplification review and draft appropriate amendments to the CRC Order.

12. The consultation has a four week response window in order to provide sufficient time to bring the negative amendment into force prior to the start of the second phase. Government acknowledges the abridged timelines but proposes the available timelines are an appropriate compromise between stakeholder feedback, the relatively straightforward nature of the amendments and the timescales of the Parliamentary process.
13. For convenience, where this consultation refers to ‘Government’ it should be read as meaning, unless otherwise indicated, the Coalition Government, Scottish Government, Welsh Assembly Government and the Northern Ireland Executive.

Proposed amendments

Proposal 1

Extend the introductory phase, postpone the start of phase two, and subsequent phases, and align the treatment of footprint years.

Discussion

14. In light of Government's intention to review elements of the scheme, Government proposes extending the introductory phase by 12 months so that it runs for four years until March 2014 rather than March 2013. This would provide participants with an additional year's experience of reporting, complying and surrendering allowances in the introductory phase. It would also provide Government with additional data on the operation of the financial mechanisms and incentives.
15. Under this extension, the fourth year of the introductory phase would operate as per the other compliance years of the introductory phase. Allowances would be sold at a fixed price and would need to be surrendered by the last working day of July (2014). This amendment is focused on the timelines for the phases and does not alter the price of CRC allowances. Government has not changed its assumptions on allowance prices and revenues from the CRC, and any further decisions are a matter for the Budget process.
16. Government proposes that the performance assessment in the fourth year (i.e. performance league table published in October 2014) should be on the same basis as the current policy in respect of the second to seventh phases (i.e. absolute change 75 per cent and relative change 25 per cent).
17. To accommodate the extended introductory phase, Government intends to postpone the requirements to surrender phase two allowances for one year – from 2013/14 to 2014/15. Participants would still be required to surrender allowances in respect of their 2013/14 CRC emissions, but this would be under the extended introductory phase rather than under the second phase.

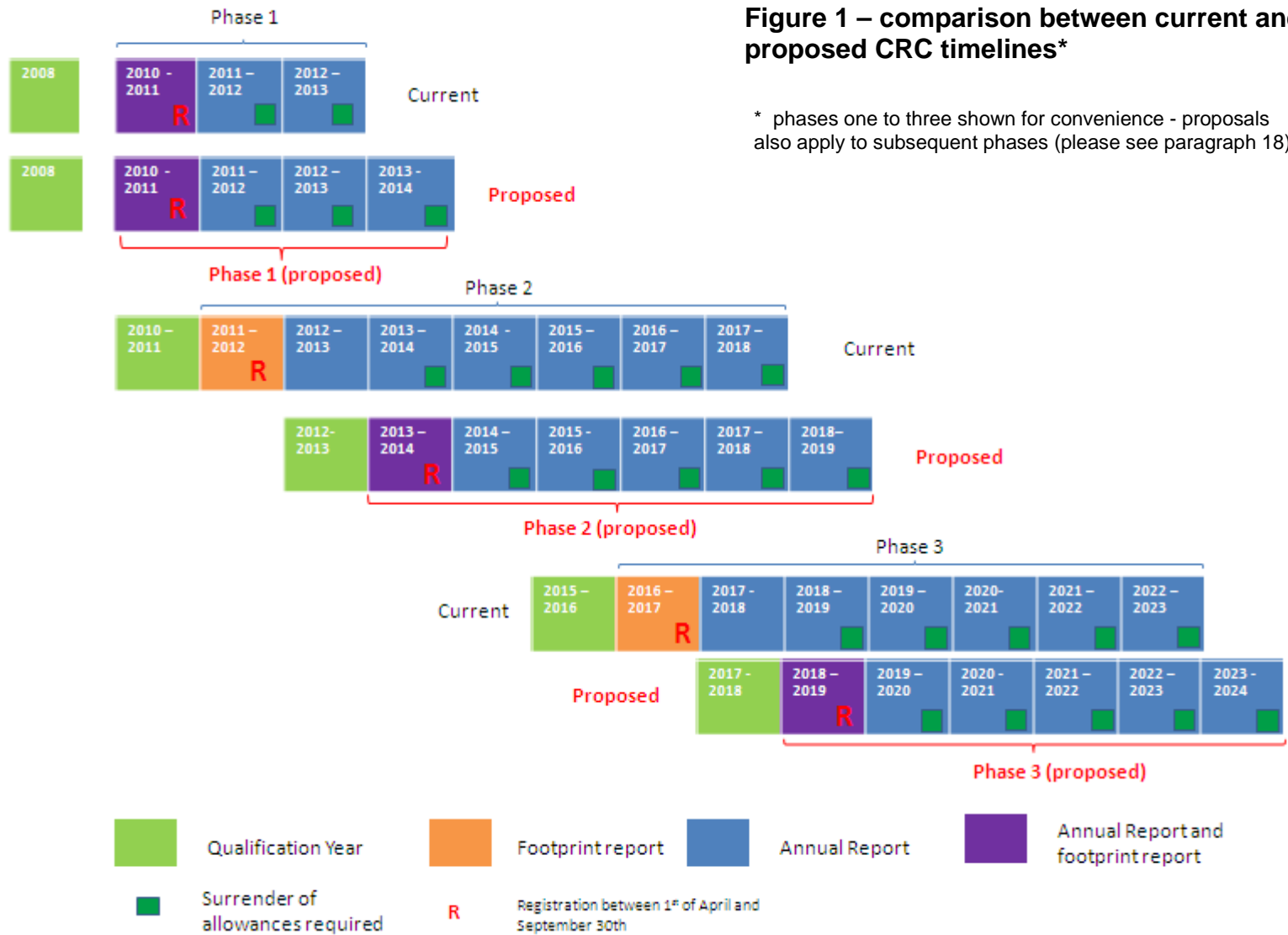
18. In addition Government proposes to postpone the requirement to register for the second phase, and subsequent phases, by two years – e.g. from 2011 to 2013 for phase two. This postponement would be enabled by making the first year of the second and subsequent phases both a footprint report and annual report year (i.e. 2013/14, 2018/19). This amendment aligns the design of the footprint year with the introductory phase, and has the technical result of making the second to sixth phases six years, rather than seven, in duration. The final phase will commence on 1st April 2038 and will be for five years in order not to extend the scheme beyond the original term. Government believes this approach would be administratively simpler for participants as well as reducing the volume of organisational change which would need to be accounted for between qualification and the footprint year.
19. The amendment would also postpone the qualification year for phase two and subsequent phases by two years, e.g. from 2010/11 to 2012/13 for phase two.
20. These amendments would provide a suitable window in which to consult on the CRC simplification options and to make any amendments prior to the start of phase two on 1st April 2013. Government proposes this review approach is more straightforward than trying to amend the scheme mid phase.
21. The proposed changes to the timeline are shown in Fig 1, along with the current timescales as specified in the original CRC Order.

Consultation Question

1. Do you agree with Government's proposal to extend the introductory phase and the associated amendments?

Yes/no

If no, please explain why.



Proposal 2

Remove the requirement for organisations who are not required to register as participants to make information disclosures.

Discussion

22. Organisations which have at least one half hourly meter settled on the half hourly market, but who are not required to register as participants, are required to make an information disclosure at the beginning of each phase. Government originally implemented this requirement in order to ensure that all settled half hourly meters had been accounted for during the CRC's registration window and that all eligible organisations had registered for the scheme. In addition the data accumulated through the information disclosures and registrations would provide an evidence base upon which to revisit the scheme's qualification threshold if so desired under a policy review.
23. Government considers the primary value from the information disclosure process to have been realised from the phase one registration period. In response to stakeholder feedback Government therefore proposes to remove the requirement to make an information disclosure with effect from the end of the phase one registration period. Government acknowledges this will remove an administrative requirement on c. 15,000 organisations and which would have delivered limited carbon-related benefits. The removal of this administrative requirement is modelled to be a net present value saving of £590k – the details of which are contained in the accompanying Impact Assessment.

Consultation Question

2. Do you agree with Government's proposal to remove the information disclosure requirement?

Yes/no

If no, please explain reasoning.

Proposal 3

Amend the CRC's landlord provision to recognise the way in which Northern Ireland departments are accommodated in Northern Ireland Civil Service buildings.

Discussion

24. All Government departments are mandated to participate in the CRC, irrespective of whether they meet the qualification criteria. This position has been adopted in order to show public sector leadership in the area of energy efficiency.
25. However, the arrangements under which Northern Ireland departments occupy their accommodation results in a single department being considered responsible, as 'landlord', for the majority of energy supplied to the Northern Ireland Civil Service estate, while the occupying department is the department that is in a position to influence energy usage and efficiencies. Whilst there is no loss of emissions coverage under this scenario, as supplies are attributed to one department as opposed to being split across departments, the position does not fully deliver on the Northern Ireland Executive's commitment for all Northern Ireland departments to be responsible for their emissions under CRC. In addition this position distorts a department's annual report in that a Northern Ireland department that appears to have zero emissions (because the supply is made to a 'landlord' department) will not be able to show the energy efficiency it has undertaken.
26. Government therefore proposes to disapply the landlord/ tenant rule in these exceptional circumstances of Northern Ireland departments. This would enable the department providing the accommodation to claim unconsumed supply in respect of onward supplies to the other departments. The occupying department would be responsible for their energy supply where provided via their hosting department.
27. Government however reiterates that landlords, rather than tenants, generally have the greatest ability to influence a building's energy consumption. Government does not propose amending the landlord/tenant rule in other circumstances – for example where a Northern Ireland department occupies a commercial property via a private sector landlord. In such circumstances the landlord will be unable to claim unconsumed supply, irrespective of who its tenants are.

Consultation Question

3. Do you agree with Government's proposal to amend the landlord/tenant rule in respect of Northern Ireland departments?

Yes/no

If no, please explain reasoning.

Proposal 4

Update the division of responsibilities between the scheme's three administrators.

Discussion

28. The current drafting details those provisions for which the Environment Agency is the administrator and those for which this role is shared between the Environment Agency, the Scottish Environment Protection Agency and the Chief Inspector Northern Ireland, subject to a participant's location.

29. Having consulted the administrators, Government proposes to redistribute the responsibilities to more accurately reflect the originally intended roles. Those provisions Government intends to redistribute are listed below:

- Ability to inspect records – moved to relevant administrator (article 57(4))
- Notification of residual measurement lists and public disclosure - moved to the Environment Agency (Article 59(2))
- Ability to prevent or suspend the operation of a compliance account or refuse to open such an account - moved to the Environment Agency (article 70)
- Ability to cancel a participant's registration - moved to the Environment Agency (article 72)

Consultation Question

4. **Do you agree with Government's proposal to redistribute the administrators' responsibilities?**

Yes/no

If no, please explain reasoning.

Proposal 5

Correction of reference errors and technical fixes.

Discussion

30. Government proposes to take the opportunity presented by the Amendment Order to update reference errors in the original CRC Order. These corrections are actioned via Articles 5, 6, 11, 12, 16, 19 and 21 of the Amendment Order. Full details of these amendments can be found in the accompanying draft Amendment Order.
31. Government also proposes to update definitions within the interpretation provision. The definition of 'footprint supplies' was already contained within the original Order under article 41(5) but not explicitly referenced in the interpretation section. The definition of 'footprint emissions' was included in the interpretation section but the cross reference was insufficiently precise. These updates will not have a material impact on any participant, however Government proposes to take the opportunity presented by this Amendment Order to update these references.
32. It is the stated policy intent that participants claiming a CCA exemption, either during registration or via the footprint report, can do so using emissions data reported under their CCA regime or recalculate using the relevant CRC emissions factors. However the current drafting of the CRC Order does not allow participants claiming the exemption during registration to have this choice; requiring them to recalculate emissions using the CRC emissions factors. Government therefore proposes an amendment to align exemptions claimed at

registration with the choice available for exemptions claimed via the footprint report.

Consultation Question

5. Do you agree with Government's proposal to update reference errors in the original order?

Yes/no

If no, please explain reasoning.

Consultation Question

6. Do you agree with Government's proposal to update the interpretation definitions?

Yes/no

If no, please explain reasoning.

List of questions

Question 1 - Do you agree with Government's proposal to extend the introductory phase and the associated amendments?

Question 2 - Do you agree with Government's proposal to remove the information disclosure requirement?

Question 3 - Do you agree with Government's proposal to amend the landlord/tenant rule in respect of Northern Ireland departments?

Question 4 - Do you agree with Government's proposal to redistribute the administrators' responsibilities?

Question 5 - Do you agree with Government's proposal to update reference errors in the original order?

Question 6 – Do you agree with Government's proposal to update the interpretation definitions?

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