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Consultation on the Draft Order to Implement the Carbon Reduction Commitment

March 2009

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

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Carbon Reduction Commitment (CRC)
National Carbon Markets
Department of Energy and Climate Change
3 Whitehall Place,
London
SW1A 2HD

Email: crc2009consultation@decc.gsi.gov.uk

This document is also available on the DECC website at

http://www.decc.gov.uk/en/content/cms/consultations/crc/crc.aspx

Published by the Department of Energy and Climate Change.

This consultation discusses the statutory basis for the Carbon Reduction Commitment after two previous consultations on policy design.

This consultation will further help to formulate our long-term energy policy.

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Scope of the consultation

Topic of this consultation:	Consultation on the Draft Order to implement the Carbon Reduction Commitment (CRC)
Scope of this consultation:	The Carbon Reduction Commitment (CRC) will be a new mandatory carbon dioxide emissions trading scheme for the UK targeting emissions from large public and private sector organisations, and designed to help generate a shift in awareness, behaviour and infrastructure. This is the third public consultation in the development of the scheme and is published alongside the Draft Order which will form the statutory basis of the scheme. The first consultations and subsequent Government responses resulted in the Government committing to develop such a scheme (June 2007), and setting out the way in which the scheme would work (March 2008). This consultation is seeking views on the way we have set out the Draft Order – in particular whether there are any unintended consequences – and seeking views on a few outstanding policy issues. This consultation is published alongside a Draft CRC User Guide that sets out the practical steps that will need to be undertaken by an individual organisation to comply with the scheme (as set out in this consultation). We would welcome your views on the Guide and whether it could be improved to make it more helpful to users both in terms of content and layout.
Geographical scope:	UK
Impact Assessment:	There is an Impact Assessment, which is attached as part of the consultation package

Basic Information

To:	Businesses, public sector organisations, industry and trade associations, NGOs, charities, individuals and other interested parties
Body/bodies responsible for the consultation:	The Carbon Reduction Commitment Team, Department of Energy and Climate Change
Duration:	12 Weeks – From 12 March to 04 June
Enquiries:	Carbon Reduction Commitment (CRC) National Carbon Markets Department of Energy and Climate Change

	3 Whitehall Place, London SW1A 2HD Email: crc2009consultation@decc.gsi.gov.uk
How to respond:	All responses should be addressed as above. Electronic responses are preferred. Respondents in Scotland, Wales and Northern Ireland are asked to copy their submission to the appropriate Devolved Administration. Further details can be found at the front of this consultation document.
Additional ways to become involved:	DECC is planning to hold a number of consultation workshops across the UK during the consultation period at which organisations will be able to provide feedback directly to DECC officials. Dates for these workshops will be announced in due course.
After the consultation:	Responses to the consultation will be examined in depth after the closing date. After that, Government intends to publish a response to the consultation and publish an updated version of the Order for debate in Parliament
Compliance with the Code of Practice on Consultation:	This consultation complies with the Code of Practice on Consultation

Background

Getting to this stage:	In 2005, Government published its Energy Efficiency and Innovation Review which, drawing on analysis by the Carbon Trust, identified cost effective abatement options for large non-energy intensive organisations which existing policies were not delivering. The analysis suggested that various barriers such as split incentives between landlords and tenants and organisational inertia prevented economic measures from being adopted. Government then committed, in the Energy Review of July 2006, to deliver carbon savings of 1.2 million tonnes of Carbon (MtC) - equivalent to 4.4 million tonnes of CO_2 per year - by 2020 from large non-energy intensive business and public sector organisations. In November 2006, Government consulted on options to achieve this target but primarily focused on: 1. The Carbon Reduction Commitment (then called the Energy Performance Commitment) – a mandatory 'cap and trade' scheme covering energy use emissions from large business and public sector organisations.

	2. A system of voluntary benchmarking and reporting of energy use covering large business and public sector organisations. Responses demonstrated strong support for a mandatory approach, with the majority of respondents considering that a voluntary measure would not deliver the required target reductions. Analysis commissioned by Government in 2006 established that a mandatory emissions trading scheme, such as the Carbon Reduction Commitment would deliver net benefits to the target sector. Further analysis commissioned by Government in 2007, looked at various policy options for emissions reductions and concluded that an emissions trading scheme covering the target sector performed favourably compared with alternatives such as expanded Climate Change Agreements, stronger building regulations or mandatory reporting and benchmarking. It was therefore announced in the 2007 Energy White Paper that Government would proceed with implementation of a mandatory emissions trading scheme – the Carbon Reduction Commitment. Government subsequently consulted on the detailed implementation options for CRC including areas such as price of allowances, definition of organisations, auction design, emissions coverage and relation to CCAs and EU ETS. The Government Response was published in March 2008.
Previous engagement:	• Two full public consultations o Nov 2006 - on measures to reduce carbon emissions in the large non-energy intensive business & public sectors o June 2007 – Implementation proposals for the Carbon Reduction Commitment (formerly the Energy Performance Commitment) • Workshop – Sept 2006 – London – on lessons learned from UK ETS that could be applied to CRC • Workshops to coincide with the two consultations; o January 2007 – London, Manchester, Edinburgh, Cardiff and Belfast (over 500 attendees) o July 2007 – London, Manchester, Edinburgh, Cardiff and Belfast (over 500 attendees) • Workshop – March 2008 – London – to discuss the report on the June 2007 consultation and Government's policy decisions (250 attendees) • Workshop – September 2008 – London – to raise awareness with Trade Associations • A series of focus groups with private and public sector stakeholders on key CRC design issues • Direct engagement with industry associations and trade associations e.g. the

	CBI, UK Emissions Trading Group, UK Business Council for Sustainable Energy, Major Energy Users Council, Water UK and British Retail Consortium • Information fliers sent to every potential CRC participant as part of their energy bills during early 2008 • During the summer of 2008 letters were sent directly to CEOs and Company Secretaries of 13,000 organisations informing them that they could qualify for CRC. These were supported by follow up phone calls. • Speaking engagements at private and public sector events, including conferences, workshops and trade association meetings • Indirect engagement via national press, trade press and professional bodies

How to respond

Comments on the Draft CRC Order, Consultation Document, Regulatory Impact Assessment (RIA) and User Guide are welcome. All responses will be considered before final decisions are taken.

Please note that responses must be received by **1700 Thursday 04 June 2009**.

Wherever possible, consultees should submit comments by email using the consultation response form available online, 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:

crc2009consultation@decc.gsi.gov.uk

Response forms can also be submitted by post to:

Carbon Reduction Commitment (CRC)

National Carbon Markets

Department for Energy and Climate Change

3 Whitehall Place,

London

SW1A 2HD

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: climate.change@scotland.gsi.gov.uk

By Post: Climate Change Division

Scottish Government

1G Dockside

Victoria Quay

Edinburgh EH6 6QQ

Enquiries: 0131 244 7815

Wales

By email: Climate-Change@wales.gsi.gov.uk

By Post: Ruth Gow

Climate Change and Water Division

Welsh Assembly Government

Cathay Park

Cardiff CF10 3NQ

Enquiries: 029 2082 3615

Northern Ireland

By email: keith.brown@doeni.gov.uk

By Post: Keith Brown

Climate Change Unit

DOE Planning and Environmental Policy Group

2nd Floor, Calvert House

23 Castle Place

Belfast, BT1 1FY

Enquiries: 028 9025 4735

Executive Summary

The Carbon Reduction Commitment (CRC) will be a new statutory carbon dioxide emissions trading scheme for the UK, which will cover emissions from primarily non-energy intensive large public and private sector organisations. It is designed to help generate a shift in awareness, behaviour and infrastructure. This is the third public consultation on the development of the scheme. Published alongside it is the Draft Order that sets out organisations' legal obligations under the scheme, and a User Guide outlining the practical steps that will need to be undertaken by an individual organisation to comply with the scheme.

Organisations that qualify for CRC will be required to report their annual CO_2 emissions to Government at the end of each scheme year. Each participant will be required to hold and cancel a number of 'emissions allowances' at the end of each scheme year that corresponds with its total CO_2 emissions. Government will sell allowances to participants and in future years will control the amount of CO_2 emitted by the participants taken together, by limiting the number of allowances available for sale. Participants will be able to trade allowances amongst themselves and those that do not hold sufficient allowances at the end of each year, or who incorrectly report their emissions will be subject to a stringent penalty regime.

The scheme is scheduled to start in April 2010 and will target emissions at an organisation rather than site level basis. Responsibility for emissions will be assigned to the organisation that is the customer of the energy supplier – this is usually the organisation who pays the energy bill. Government will aggregate organisations together using group structures based on the tests in Companies Law to constitute an 'organisation' in CRC. Certain organisations that would usually have independent status will also be aggregated for the purposes of CRC. Section 2 of this document describes the responsibilities of the different parties in these circumstances, including franchisors/franchisees; local authorities/schools and Universities/Colleges. This section also sets out the proposed responsibilities for large subsidiaries; treatment of landlord and tenant responsibilities; and approach to domestic housing.

Any organisation that used at least 6,000MWh of half hourly electricity during 2008 will qualify for the scheme. All organisations with a half hourly meter settled on the half hourly market will have to provide Government with a list of their settled half hourly meters. Organisations that exceed the 6,000MWh threshold will have to register as a participant in CRC. Section 3 sets out the qualification and registration steps and proposes a revised disclosure requirement for those organisations that exceed the qualification threshold of 6,000MWh. In section 5, Government proposes that if, after removing half hourly electricity used for transport, an organisation's half hourly consumption was below 1,000MWh they will qualify for an exemption from the scheme for the duration of that phase.

If an organisation qualifies as a participant, it will need to report its emissions from all fixed point energy sources (not just electricity) and obtain and cancel a corresponding number of allowances at the end of each year. However, emissions from certain activities, including transport, or emissions covered by other Government policies, do not have to be included in CRC, as outlined in section 4. Furthermore, to reduce the burden of monitoring small sources of emissions, only 90% of the participant's footprint is required to be covered by either CRC, a *Climate Change Agreement* (CCA) or *EU Emissions Trading System* (EU ETS). In meeting this requirement, organisations must include all emissions from energy sources that are classed as *Core Sources*, even if together these exceed 90% of the footprint. Core sources refer to electricity and gas use measured by certain types of meters. Ultimately any emissions within the 90% of emissions coverage that are regulated by a CCA or EU ETS, can be omitted from the emissions an organisation includes in CRC. In addition, subsidiaries of participants (and in some cases entire participants) that have a CCA covering more than 25% of their emissions will be exempt from CRC for all their emissions. Where the CCA applies to a subsidiary, only the subsidiary will be exempt. The rest of the organisation will still have to participate. Government proposes, in section 5, that if after exempting subsidiaries, the whole organisation has less than 1,000MWh of half hourly electricity left in CRC, then the entire organisation would be exempt.

Participants will monitor their total energy use during a Footprint Year, which will normally take place prior to the start of compliance years. In the Introductory Phase, the Footprint Year is concurrent with the first *compliance year* of the scheme (April 2010-2011). Data on the footprint and emissions that will be included in the scheme must be reported to the Administrators in a *Footprint Report,* submitted four months after the end of the Footprint Year. Government proposes that qualification for the CCA exemptions is established on the basis of the Footprint Year.

During each year participants will have to monitor and record their CRC emissions. These will be calculated using the emissions factors proposed in section 9 and the use of estimates to determine energy use will be allowed. Participants will have to report emissions data by the last working day of July, following the end of that compliance year. These monitoring and reporting requirements, and other key obligations in CRC, are described in section 9.

By the July reporting deadline, participants will also have to obtain and cancel a sufficient number of allowances to cover their reported emissions. These allowances can be purchased in one of three ways, described in section 6. There will be an annual Government sale or auction at the start of the year. During the Introductory Phase, an unlimited number of allowances will be sold at a fixed price of £12/tCO_2 during two month long sale windows (April 2011 and 2012). During the capped phases the number of allowances for sale will be limited by Government and sold via an auction. There will be no sale of allowances in the first year of the scheme. The

first Government sale in April 2011 will be a double sale where participants purchase allowances to cover their actual emissions from 2010/11 and forecast emissions for 2011/12.

Outside of these Government sales or auctions, allowances can be bought and sold by trading with others on the secondary market; or purchased via the safety valve mechanism. This is a buy-only link to the EU ETS. Government proposes that there will be a minimum price of £12/tCO_2 for allowances issued via the safety valve in the Introductory Phase, and these allowances will generally be issued once a month to reduce administrative burden.

Revenue raised from the Government sale of allowances will be recycled back to participants, based on their performance in the scheme. As outlined in section 7, payments will be proportional to each participant's 2010/11 emissions with a bonus or penalty according to their improvements in energy efficiency, as measured by their ranking in the Performance League Table (PLT). The league table is designed to incorporate reputational incentives in CRC, as well as provide the basis for the financial incentives. Performance is assessed on the basis of three differently weighted metrics, outlined in section 8. These reflect the change in a participant's absolute emissions, the change in its emissions relative to turnover or revenue expenditure, and, in the Introductory Phase, a measure of the action it has taken to manage energy use prior to the scheme starting. The league table will be published in October, after the end of each compliance year. It is proposed that historic baselines, on which performance is assessed, should be updated to reflect the sale or purchase of large subsidiaries.

The scheme is designed to be administratively light touch for participants. Participants will be required to keep records of the data they report, including evidence for exemptions, in an evidence pack. In order to verify that participants are reporting correctly and cancelling sufficient allowances, a proportion of participants will be audited each year. The audit procedure is described in section 10. Section 11 sets out the enforcement regime for the scheme. Government proposes a number of civil penalties based on a combination of fixed and variable fines, as well as publication of non-compliance. A limited number of criminal offences are also proposed, along with a system for appeals and powers of inspection.

1. Introduction - Policy Context, Background and Rationale

The Carbon Reduction Commitment (CRC) will be a new mandatory carbon dioxide emissions trading scheme for the UK targeting emissions from large public and private sector organisations, and designed to help generate a shift in awareness, behaviour and infrastructure. This is the third public consultation in the development of the scheme and is published alongside the Draft Order. Subject to this consultation, it is intended that the scheme will be established by:

- An Order in Council under the Climate Change Act 2008 trading scheme powers. This Order will provide most (but not all) of the legal basis for CRC. A Draft Order has been prepared for this consultation, and contains specific provisions currently considered necessary to give effect to CRC – so as to give readers an idea of how the specific requirements of CRC might be framed legally. Readers should, however, be aware that the Order is subject to ongoing consideration and change by DECC so as to improve it in terms of its overall structure and clarity; there may also be substantive amendments arising as a result of this consultation. The final form of the Order is likely, therefore, to differ in its structure and presentation from the current draft.

- Allocation Regulations made under section 21 of the Finance Act 2008. These Regulations cover the sale of allowances by Government to scheme participants (but not the purchase of EU ETS allowances for the safety valve – the purchase powers are set out in the Draft Order). These Regulations may, similarly, be subject to further structural or presentational amendments.

The first consultations and subsequent Government responses resulted in the Government committing to develop such a scheme (June 2007), and setting out the way in which the scheme would work (March 2008). This consultation is seeking views on the detail of the scheme design, as it has been set out in the relevant provisions of the Draft Order – in particular whether there are any unintended consequences – and seeking views on a few outstanding policy issues.

This consultation is published alongside a Draft CRC User Guide that sets out the practical steps that will need to be undertaken by an individual organisation to comply with the scheme (as set out in this consultation). We would welcome your views on the Guide and whether it could be improved to make it more helpful to users both in terms of content and layout.

1.1 Carbon Reduction Commitment (CRC) – An introduction

The Carbon Reduction Commitment (CRC) is a groundbreaking mandatory emissions trading scheme for the UK. It is designed to tackle carbon dioxide (CO_2) emissions not already covered by Government regulation. CRC is a central part of the UK's strategy for controlling our CO_2 emissions, so that we can reduce our carbon footprint and deliver the ambitious emissions reduction targets set in the Government's Climate Change Act, including an 80% reduction in CO_2 emissions by 2050. The scheme will deliver emissions savings of at least 4.4 million tonnes of CO_2 per year by 2020 and is expected to cover 4,000 to 5,000 organisations. Analysis suggests that, by driving energy efficiency measures, the scheme can also deliver a Net Present Value benefit to participants of £1billion through savings in energy bills.

Organisations that qualify for CRC will be required to report their annual CO_2 emissions to Government at the end of each scheme year. Each participant will be required to hold and cancel a number of 'emissions allowances' at the end of each scheme year that corresponds with its total CO_2 emissions. Government will sell allowances to participants and in future years will control the amount of CO_2 emitted by the participants taken together, by limiting the number of allowances available for sale. Participants will be able to trade allowances amongst themselves and those that do not hold sufficient allowances at the end of each year, or who incorrectly report their emissions will be subject to a stringent penalty regime.

CRC will start in April 2010, and has been designed by the UK Government and Devolved Administrations working in partnership. It will target emissions from energy use by large organisations, which represent around 10% of UK emissions. Likely qualifying organisations include large businesses, retailers, banks, landlords, supermarkets, hotel chains, restaurant chains, water companies, telecommunications companies, government departments, large local authorities, universities etc. It will apply to both public and private sector organisations.

As stated in the previous consultations, CRC will target emissions from fixed energy sources at an organisation rather than site level, to reduce the administrative burden on participants that would be created by targeting individual sites. The scheme does not include transport emissions. Responsibility for emissions (and half hourly metered electricity consumption for qualification purposes) will fall to the counterparty to the energy supply contract – in most cases this will be the organisation that pays the energy bill.

Emissions trading schemes provide a financial incentive to reduce emissions by placing a price on carbon emissions, whilst allowing the reductions to be made where they are most cost effective. In the case of CRC, participating organisations will have to purchase allowances equivalent to their emissions each year. Overall, Government will constrain emissions by limiting the number of allowances available (the "cap"). CRC will be subject to a decreasing cap from 2013 to ensure that overall

emissions are reduced year on year. Individual organisations can determine the most cost-effective means of meeting their emissions targets – either to improve their own energy efficiency or buy a greater proportion of the available allowances. This means that CRC provides an efficient mechanism to achieve emissions reductions.

The concept of emissions trading will be new to many organisations qualifying for the scheme. To allow participants to adjust to a trading scheme, and to enable Government to establish accurate data on emissions across the target sector, CRC will feature a three year Introductory Phase. In this phase there will be a simple fixed price annual sale of allowances without a cap on the total number of allowances available.

Following the Introductory Phase, all CRC allowances will be purchased by means of an annual online auction. The volume of allowances available will be fixed according to the cap set by Government. Participants will bid for the number of allowances they require according to their projected emissions and cost of abatement options. When setting the cap, Government will take into account the views of the Committee on Climate Change, the data accumulated during the Introductory Phase, the UK's overall emissions reduction targets and the wider policy landscape.

CRC will be broadly revenue neutral to the Exchequer. Subject to state aid clearance, sale/auction revenue will be recycled back to participants by means of a direct annual payment proportional to 2010/11 emissions, with a bonus or penalty depending on an organisation's position in the CRC Performance League Table. In addition to a bonus payment, organisations who reduce their emissions in the scheme will gain financially in two ways: firstly by lower energy bills, and secondly through lower CRC allowance costs. It should therefore be noted that better than average performers will increase their share of the recycling payments while their expenditure on allowances is going down. These all provide additional incentives for organisations to reduce emissions.

The scheme will feature an annually published Performance League Table ranking all participants according to how well they perform in the scheme. The league table is included in the scheme to leverage corporate social responsibility drivers, in addition to financial drivers. Relative performance against other participants in the scheme will be calculated on the basis of three weighted metrics. In the Introductory Phase only, these are:

1. Absolute metric - Reduction in absolute emissions (60%)
2. Growth metric - Reduction in emissions per unit of turnover or revenue expenditure (20%)

3. Early Action metric - In the Introductory Phase only, a measure of good energy management practices taken before the start of the scheme (20%).

The combination of reputational and financial drivers is designed to raise awareness of energy and carbon issues at senior management level. This is key to driving behaviour change in participant organisations, and maximizing the uptake of financially beneficial energy efficiency measures available. Furthermore, the obligation in CRC to monitor and report on energy use and emissions will generate data that can inform organisations' decision-making on the most cost-effective future investments in infrastructure and other efficiency measures.

CRC is also designed to be as simple as possible and "light touch" in terms of administrative requirements:

- Organisations will carry out self-certification of their emissions, which will then be backed up by an independent risk based audit regime (as opposed to the administratively intensive EU Emissions Trading System (EU ETS) system of third party verification of all sites);
- responsibility for emissions will be the party to the energy supply contract; and
- CRC focuses only on those emissions not covered by the UK's Climate Change Agreements (CCAs) and those outside the direct emissions covered by the EU ETS.

1.2 Practicalities of the Scheme

1.2.1 Scheme Administrators

The Environment Agency (EA), Scottish Environmental Protection Agency (SEPA) and the Department of Environment in Northern Ireland are appointed as the joint scheme Administrators (Article 4 of the Draft Order). However, the basic administrative functions will be carried out by the EA for the whole of the UK and certain functions must be performed by them. These are in relation to establishing and maintaining a registry, publishing league tables and dealing with registry accounts and allowances. Scheme regulation will be carried out by the relevant body in each part of the UK and include such functions as carrying out audits on participants and taking enforcement action against any organisation whose HQ is in their jurisdiction. Where reference is made to the Administrators in this document, it may be taken as reference to any, or any combination of the Administrators.

1.2.2 Scheme Phases

The scheme will be divided into set time periods known as phases. The first phase is the Introductory Phase, starting in April 2010, and will run for three years. Subsequent phases will each last for five years. Each phase is comprised of a

number of consecutive compliance years which run from 1 April to 31 March, like financial years. There will be no gaps or breaks between phases or compliance years.

In the Introductory Phase allowances will be sold at a fixed price of £12/tCO2, and there will be no limit on the number of allowances an organisation can purchase in each sale. In all subsequent phases, Government will set a cap on the total number of allowances available to the CRC sector as a whole, and these allowances will be auctioned, rather than sold at a fixed price. More details on allowances sales and auctions are described in section 6 of the Consultation document.

Prior to the start of the compliance periods of each phase Government proposes that there will be:

- a **qualification period** in which organisations must determine whether they meet the qualification criteria for participation in the scheme. For the Introductory Phase, the qualification period is the calendar year 2008. For subsequent phases, the qualification period will be the financial year prior to the footprint year (i.e. 1 April 2010 – 31 March 2011 for the second phase).

- a **footprint year** in which participants must calculate their total footprint emissions, and determine their emissions responsibility under CRC. In the Draft Order, the first year of each phase is a footprint year.

  Government proposes that in the Introductory Phase only, the footprint year will overlap with the first compliance year. Therefore the year 1 April 2010 – 31 March 2011 will be the footprint year but also the first compliance year of the Introductory Phase. This is a change from Government's previously announced intention to use the six month period prior to the beginning of the scheme (October 2009 – April 2010) to collect data for the Footprint Report. In order to reduce administrative burdens on participants, Government is now proposing to allow participants more time to set their footprint data over the course of twelve months rather than six. For future capped phases, as set out in March 2008, Government intends to use the year immediately following the qualification year as the footprint year. This will be 2011/12 and 2016/17 for the second and third phases respectively.

- a **registration deadline** by which qualifying organisations must register as a participant in the scheme. For the Introductory Phase, participants will be able to register from April 2010 until September 2010.

  For subsequent phases, the registration deadline will be the last working day of the footprint year (i.e. 31 March 2012 for the second phase).

1.2.3 Compliance activities

Every phase will then be arranged in **compliance years**. In each compliance year, participants will generally complete four steps:

1. At the beginning of each compliance year, they will be able to purchase allowances from Government based on their expected energy use for that year[1].

2. They should monitor their energy use, purchasing or selling allowances on the secondary market as necessary, and in July, following the end of each compliance year, they will be required to report their energy use emissions to the Administrators.

3. In July, participants will also need to surrender allowances equal to the total energy use emissions during that compliance year.

4. In October, of the same compliance year they receive a revenue recycling payment from Government.

More information on the compliance obligations is provided in section 9 of this document, while the Revenue Recycling is dealt with in section 7.

CRC time periods are described in the Draft Order in Article 5. Figure 1.1 below summarises the key milestones for the Introductory Phase of the scheme. The reporting obligations that appear in Figure 1.1 are discussed in section 9 of this document.

[1] The purchase of allowances in the Government sale is not a legal requirement – participants could acquire all their allowances from the secondary market

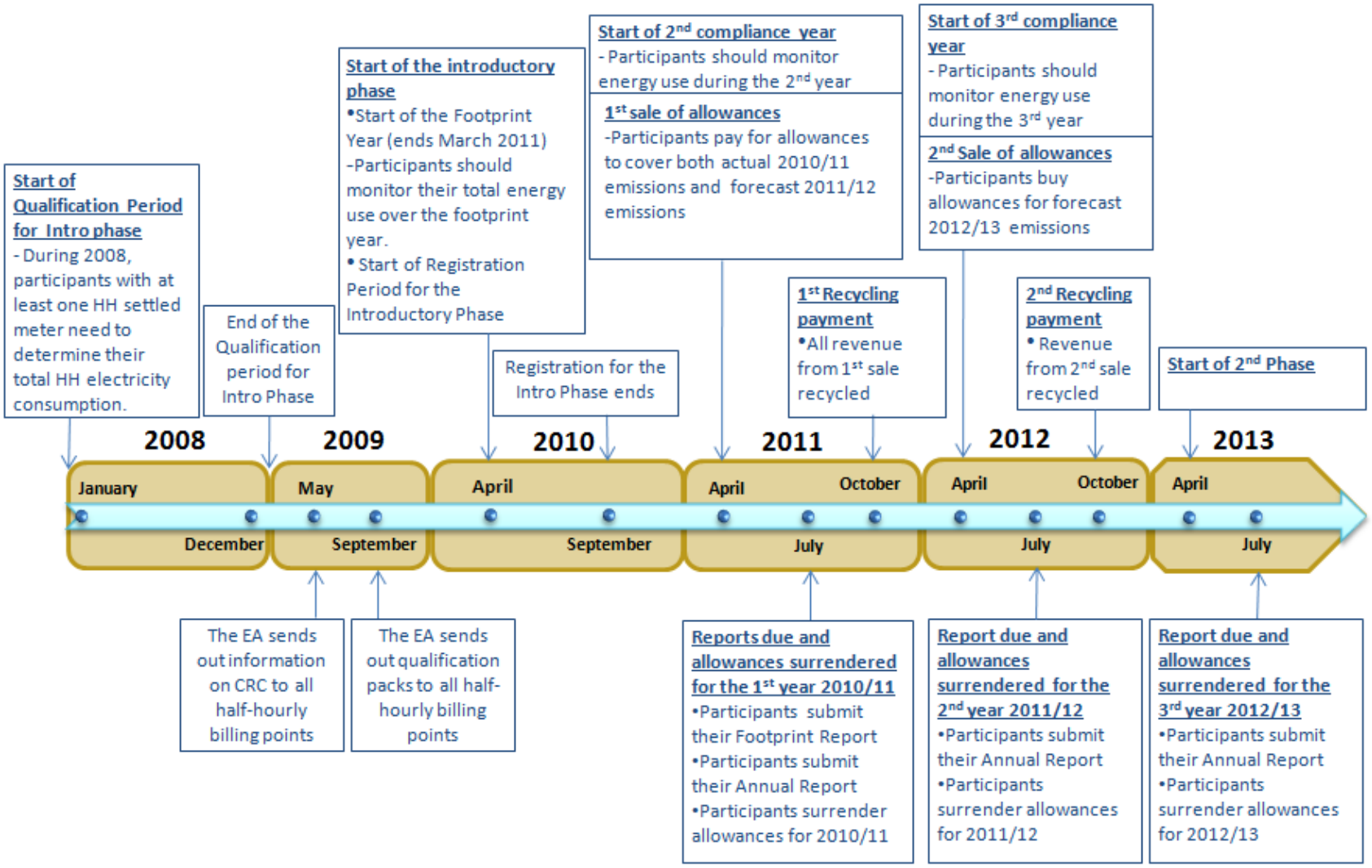

Figure 1.1: CRC Timeline

1.3 Why CRC?

In 2005, Government published its Energy Efficiency and Innovation Review which, drawing on analysis by the Carbon Trust[2], identified cost effective abatement options for large non-energy intensive organisations which existing policies were not delivering. The analysis suggested that various barriers such as split incentives between landlords and tenants and organisational inertia prevented economic measures from being adopted.

Government then committed, in the Energy Review of July 2006[3], to deliver carbon savings of 1.2 million tonnes of Carbon (MtC) - equivalent to 4.4 million tonnes of CO_2 per year - by 2020 from large non-energy intensive business and public sector organisations.

In November 2006, Government consulted on options to achieve this target but primarily focused on:

- The Carbon Reduction Commitment (then called the Energy Performance Commitment) – a mandatory 'cap and trade' scheme covering energy use emissions from large business and public sector organisations.
- A system of voluntary benchmarking and reporting of energy use covering large business and public sector organisations.

Responses demonstrated strong support for a mandatory approach, with the majority of respondents considering that a voluntary measure would not deliver the required target reductions.

Analysis[4] commissioned by Government in 2006 established that a mandatory emissions trading scheme, such as the Carbon Reduction Commitment would deliver net benefits to the target sector.

Further analysis commissioned by Government in 2007[5], looked at various policy options for emissions reductions and concluded that an emissions trading scheme covering the target sector performed favourably compared with alternatives such as expanded Climate Change Agreements, stronger building regulations or mandatory reporting and benchmarking.

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[2] "The UK Climate Change Programme: potential evolution for business and the public sector" Carbon Trust December 2005 - http://www.carbontrust.co.uk/Publications/publicationdetail.htm?productid=CTC518

[3] The Energy Review, July 2006 - http://www.berr.gov.uk/files/file31890.pdf

[4] "Energy efficiency and trading part II: options for the implementation of a new mandatory UK emissions trading scheme" NERA/Enviros, April 2006 - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

[5] "Comparison of policies to reduce carbon emissions in the large non-energy-intensive sector" Defra, August 2006 - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

It was therefore announced in the 2007 Energy White Paper[6] that Government would proceed with implementation of a mandatory emissions trading scheme – the Carbon Reduction Commitment.

Government subsequently consulted on the detailed implementation options for CRC including areas such as price of allowances, auction design, emissions coverage, and relation to CCAs and EU ETS. The Government Response was published in March 2008[7].

The responses to the consultation demonstrated a high level of support for the majority of the Government's proposals for scheme design, as shown in Figure 1.2 below. The figure shows the degree of agreement or disagreement with Government's proposals (the x-axis) for each question asked in the consultation (represented on the y-axis)

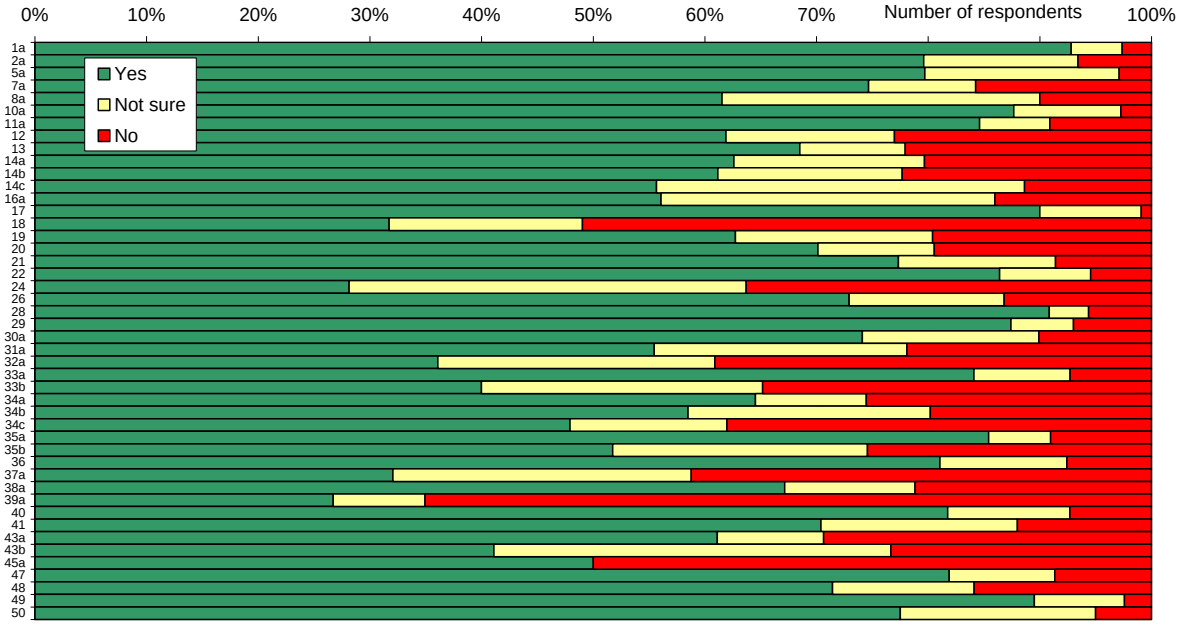


Figure 1.2: Responses from the Previous Consultation

The design of CRC reflects considerable input from stakeholders and Government has directly taken on board recommendations from stakeholders regarding areas such as cashflow implications and inclusion of schools.

1.4 Where CRC fits in the Climate Change policy map

The Climate Change Act, passed in December 2008, creates a new legal framework for the UK achieving, through domestic and international action, at least an 80%

[6] The Energy White Paper - May 2007 - http://www.berr.gov.uk/files/file39387.pdf

[7] Governments response to the June 07 consultation on the implementation proposals for the CRC (June 2007) - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

reduction in carbon dioxide emissions by 2050, against a 1990 baseline. Government is required to set five-year carbon budgets, placing binding limits on aggregate carbon dioxide emissions. There is provision in the Act for the targets to be amended in light of significant developments in climate science or in international law or policy.

Domestically, the UK has already put in place a wide range of measures to reduce its CO_2 emissions; these include the Climate Change Levy (CCL), which applies to all but the smallest businesses, as well as Climate Change Agreements (CCAs) and the EU ETS. These measures are primarily targeted at the heaviest direct emitters such as power generators in the EU ETS and energy intensive industry under CCAs.

The UK Government considers, therefore, that there is the potential for large business and public sector organisations to contribute more to achieving the UK's long-term emissions reductions targets and that a new mandatory instrument – CRC - is needed to target these organisations more effectively.

This will deliver a more balanced approach to reducing carbon emissions across the economy by placing absolute limits on sectors not previously facing a targeted emissions reduction instrument. Government estimates that only a small percentage (5%) of the 4,000 – 5,000 CRC organisations will have some of their emissions captured by the EU ETS, with the remaining emissions covered by CRC (or potentially CCAs).

It is important to acknowledge that there will be no administrative emissions overlap between CRC and EU ETS and CCAs. Organisations will not have to purchase allowances for emissions that are already covered by either a CCA or EU ETS.

CRC will operate as part of a wider package of measures to secure carbon savings cost-effectively from the sector. The CCL and the price effect of the EU ETS cap which effects electricity generators will provide a basic price signal on the value of energy savings – internalising external costs. These and other policy measures will continue to help address barriers and market failures, not only within CRC organisations but also the much larger population of organisations outside of CRC. Building Regulations will play a valuable role in setting minimum standards for new and newly refurbished buildings.

CRC will also operate in the context of two key Directives – the Energy End Use Efficiency and Energy Services Directive (ESD), and the Energy Performance of Buildings Directive (EPBD). Within the framework of the ESD, Government has for example announced proposals for better metering and billing. The full implementation of EPBD will further influence the market and encourage additional investment by extending requirements to provide key information, enabling comparison of buildings with respect to energy performance at the time of construction, sale or rental. These policies, aimed at energy use in buildings, help to address information barriers and landlord-tenant issues. The Carbon Trust and Salix

provide advice, funding and interest free loans to organisations across the public and private sectors, helping organisations to overcome information gaps and financial barriers. Finally, business led voluntary agreements – such as the Carbon Disclosure Project[8] – can also play an important role in fostering leadership and helping organisations to share best practice amongst themselves.

1.5 How CRC has been designed from a Better Regulation perspective

Government welcomes the stakeholder emphasis on Better Regulation, and has worked closely with stakeholders to develop CRC in line with Better Regulation principles. The Better Regulation Commission (BRC) sets out the principles for Better Regulation with regard to climate change in its report "Regulating to Mitigate Climate Change: a response to the Stern review"[9]. We believe that CRC meets these seven Better Regulation tests based on the following analysis:

Test one – Ensure climate policy is consistent with a healthy UK economy.

Initial analysis from which CRC arose identified that cost effective energy efficiency measures exist which are not being undertaken by the large non-energy intensive sector. CRC has been specifically designed so that the benefits of the scheme in lower energy costs outweigh the potential costs of participation. At the proposed qualification threshold of 6,000 MWh, (described in more detail later) the Net Present Value (NPV) of the scheme from the point of view of regulated organisations (at a commercial discount rate of 10% per year) is £1 billion at energy prices in late 2008. The threshold has been increased from the 3,000 MWh/year that was first proposed to help further ensure that the organisations covered are larger energy users with the greatest potential to make significant energy savings, which will benefit the organisations involved.

These energy savings can be expected to deliver significant NPV benefits, regardless of the economic outlook.

Test two – Government must develop and act consistently with a climate change strategy: avoiding piecemeal announcements.

CRC has been developed in full consultation with stakeholders as part of the Energy Efficiency Innovation Review, Climate Change Programme Review, Energy Review and Energy White Paper. The Climate Change Act, passed in November 2008, sets out legally binding targets for emissions reductions in the UK of 80% by 2050. CRC

[8] The Carbon Disclosure Project (CDP) - http://www.cdproject.net/
[9] "Regulating to Mitigate Climate Change: a response to the Stern review" BRE - http://www.brc.gov.uk/upload/assets/www.brc.gov.uk/climate_change.pdf

will play a key part in helping us to meet this target. Indeed the Act explicitly provides for the use of emissions trading schemes to drive emissions reductions. CRC is also consistent with Government's strategy for a more balanced approach to tackling climate change where all parts of the economy play their part. As such the scheme is designed to target a sector of the economy not currently subject to emissions reduction targets and avoids overlaps with existing policy to reduce emissions such as CCAs and the EU ETS.

Test three – Test policy against a carbon price benchmark and in terms of their contribution to other goals.

The BRC emphasises that climate change policies must be backed up by robust analysis of the costs and benefits and that value-for-money assessment of policy measures must be consistently applied across Departments. CRC has been repeatedly subject to cost-benefit analysis. The most recent updated IA accompanies this consultation document. It shows that the proposed scheme should be cost-beneficial to organisations captured by CRC and to society as a whole. Moreover, the analysis indicates that this conclusion is robust to a series of scenarios.

Test four - Carbon policy choices must be efficient: don't do things twice.

CRC does not include CCA emissions or direct emissions covered by the EU ETS, to avoid double administrative burdens on organisations already subject to these policies. In addition, subsidiaries of participants (and in some cases entire participants) with over 25% of their energy use emissions covered by CCAs would be completely exempt from CRC.

The CCL applies to all energy use in organisations captured by CRC. Electricity generation is covered by the EU ETS which means the cost of this is reflected in electricity prices for these organisations. Therefore, there is an element of multiple carbon pricing. Importantly, this does not impose any double administrative burdens. Furthermore, analysis indicates that for the target sector, a focussed downstream instrument is needed in addition to existing carbon pricing to ensure the uptake of cost-effective carbon savings, which is the purpose of CRC. The CCL and the pass through effect of the EU ETS alone will not drive the level of energy efficiency required or achievable for the sector.

Test five - Keep administrative costs to a minimum.

CRC has been designed to keep the costs of the scheme to a minimum. The cost of participation for the whole group of CRC participants will be limited as CRC will be broadly revenue neutral to the Exchequer. Revenues from the sale or auction of allowances will be recycled back to participants.

Administrative burdens have been reduced by basing reporting requirements around energy bills with emissions responsibility assigned to the energy customer. Government has further reduced the scheme's administrative costs by using self-certification backed up by a risk based audit rather than use independent verification.

To avoid any double administrative burdens, energy use emissions covered by CCAs and direct emissions covered by the EU ETS will not be covered by CRC. In addition, CCA participants (either entire organisations or subsidiaries) who have a CCA covering more than 25% of their total energy use will be completely exempt from CRC. A small percentage of the organisations covered by CRC would have some of their emissions in EU ETS, but only their remaining emissions (such as electricity or non-EU ETS gas use) would be included in CRC.

Test six - Do not use climate change as a justification for other policy goals.

CRC is a focused climate change instrument targeted at a specific sector where cost-effective emissions reductions are demonstrably available. It is not a tool to achieve other goals such as revenue raising. As outlined above, CRC spreads the burden of tackling climate change to different areas of the economy. Meanwhile, the benefits to CRC participants of lower energy bills should outweigh the costs of participation.

CRC's focus on carbon abatement reflects the prioritisation of addressing climate change by Government. The Government's chief science adviser has warned that climate change is the most serious threat facing us, while Sir Nicholas Stern highlighted the cost of action now is outweighed by the costs of inaction. The impacts of climate change will affect everybody. Therefore, all parts of the economy need to take responsibility for their emissions.

Test seven – If it isn't working – change it.

The operation of CRC will remain under review, in consultation with stakeholders. Flexibilities will exist in the scheme to enable fine-tuning for smoother operation and simplification. Government recognises that any significant changes to the design of the scheme will impact on certainty for participants. They will, therefore, be undertaken on as well-defined a basis as possible, in order that business can plan accordingly and with confidence. In the first instance Government is committed to completing a post-implementation review after the Introductory Phase of the scheme.

2 Determining the CRC Participant

2.1 Overview

The Carbon Reduction Commitment (CRC) will be an organisation based scheme rather than an installation or site based scheme such as the EU ETS or Climate Change Agreements (CCAs). Whereas an installation or site based approach is appropriate for the industrial point sources regulated under the EU ETS and CCAs, CRC targets primarily large non-energy intensive organisations. These organisations generally consume large amounts of energy across many small sites with centralised corporate energy management expertise. An organisation's operations will therefore be grouped together to participate as one entity to avoid the administrative burden that would be created by submitting returns for each individual site or subsidiary.

Government considers that this approach is consistent with the scheme's aim to stimulate greater awareness of energy use emissions within an organisation's senior management and to encourage the sharing of best practice throughout a group. Grouping organisations together under their parent will maximise the emissions coverage of the scheme whilst limiting the overall administrative responsibility to only one grouped entity rather than multiple sites and subsidiaries.

The scheme will cover a wide range of organisations from both the private and public sectors. Qualification for CRC (which is described in section 3 of this consultation) is based on an organisation's half hourly metered electricity consumption and not on the type of business it undertakes. All organisations that use at least 6,000MWh of half hourly electricity (as defined in section 3) during 2008 will qualify for the scheme subject to the exemptions outlined in section 5. This means that the definition of the CRC participant must be robust enough to cater for different types of organisation. The scheme will cover all companies, partnerships, sole traders, public sector organisations and other incorporated bodies that have operations in the UK. Wherever appropriate, the CRC legislation has drawn on definitions of organisations from existing legislation which should already be familiar to the organisations concerned. The appropriate definition of CRC participants has been the subject of two significant pieces of independent analysis[10] as well as extensive stakeholder consultation throughout the development of the policy.

Articles 6 – 27 of the Draft Order define the types of organisation that participate in CRC.

[10] "How is the successful qualification of EPC organisations ensured?" Defra, May 2007 http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm and "Analysis of CRC organisation structures in the public and private sectors" Defra, March 2008 http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

2.2 Treatment of Groups - 'Parents and Subsidiaries'

Subsidiary organisations ('group members') and their parents will be grouped together for the purposes of the scheme under the highest parent organisation. Government proposes that the legal responsibility for compliance with the scheme will rest with the group as a whole, but that the group will be required to nominate a 'primary member' with whom the scheme Administrators will correspond. In most instances this is likely to be the highest parent organisation, but where there is agreement between the Administrators and the participant an alternative group member can be nominated. This will enable participants to nominate the 'group member' who is best placed to carry out the scheme's functional and administrative requirements. Article 46 and Part 3 of Schedule 15 of the Draft Order provide for the nomination of a 'primary member'.

To establish a parent subsidiary relationship Government will use the definitions enshrined within section 1162 of the Companies Act 2006[11]. Under the Companies Act 2006 a parent is defined if:

a) it holds a majority of the voting rights in the undertaking (normally determined by its shareholding), or

b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or

c) it has the right to exercise a dominant influence over the undertaking-

   i) by virtue of provisions contained in the undertaking's articles, or

   ii) by virtue of a control contract, or

d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.

These tests will be applied in CRC to most organisations, both public and private sector, to determine their grouping – not just those business undertakings required to report under the Companies Act. This will not apply to individuals (with the exception of sole traders) or groups of individuals (with the exception of partnerships and other unincorporated associations).

The group will be classified as the CRC participant and will report emissions and surrender allowances for all the relevant operations of the parent and subsidiaries. The group will appear in the Performance League Table (see section 8 for more information), and receive associated revenue recycling payments (see section 7).

[11] See the Companies Act 2006 - http://www.berr.gov.uk/bbf/co-act-2006/index.html

Government's use of existing group definitions will reduce the need for organisations to produce a distinct group structure specifically for CRC purposes.

The exceptions to this are the treatment of franchises in the business sector and certain instances within the public sector (notably grouping schools under local authorities), where Government has grouped entities together to achieve specific policy objectives. To achieve these objectives Government has developed the principle of Associated Persons described in more detail in Box 2.1 below. Government also proposes specific provisions for determining the grouping of central Government departments. This is dealt with in section 2.6.1 below.

Article 7 and Schedule 2 of the Draft Order deal with Parents and Subsidiaries, Article 7 and Schedule 3 deal with Associated Persons and Schedule 15 deals with the interaction of Group members (Combined Participants).

Box 2.1: Responsibility for grouped entities: Associated Persons

Who are Responsible and Associated Persons in CRC?

In CRC, there are some limited circumstances in which an organisation must take responsibility for the energy use of another separate, but functionally related, organisation. In these special cases, the organisation to which emissions are being assigned is referred to as the "Principal Person" or (in this document) the '*responsible person*'. The organisation being aggregated is referred to as the '*Associated Person'*. Responsible persons have to include the electricity use of their Associated Persons when determining whether they qualify for CRC, and are responsible for the energy use emissions of their Associated Persons when participating in the scheme. This is dealt with in more detail in Sections 2.4.1, 2.6.2 and 2.6.3.

Responsible person (RP)	Associated Person (AP)
The RP will in general be the CRC participant. In the case of franchising, the franchisors might be subsidiaries of a CRC participant	The APs have a duty to provide the responsible person with 'relevant assistance' in complying with the scheme.
Local Education Authority Franchisor Greater London Authority University	School[12] Franchisee Related bodies College

2.2.1 Date to determine Group structure

For the purposes of qualifying for the scheme, the participant group structure will be defined as the one in place at the end of the qualification year (for the first phase this is 31 December 2008). This means that the organisation will have to include all relevant half hourly electricity usage (see section 3.1) for which it was classed as the customer during 2008, from all the subsidiaries that it owned on this date. To determine qualification the organisation will need to aggregate all the relevant half hourly electricity used by these 'group members' for the entire year, not just for the period the member was part of the group.

Once an organisation has qualified for the scheme, for compliance purposes it will generally be responsible for all the energy use emissions from any sites or subsidiaries it purchases from the date of the purchase. Likewise, it will only be responsible for sites or subsidiaries it sells up to the point of sale. The subsidiaries and sites will be deemed to be part of the group from the date of purchase. To reduce administrative burdens, Government will generally not require participants to notify the Administrators of any purchases or sales of sites or subsidiaries, but will require the inclusion of their emissions in their annual reports.

The exception to this approach is where there are any changes to the group structure which involve entire participants or 'Principal Subsidiaries', referred to as 'Designated Changes' (see section 2.3.1). These would be deemed to take effect at the start of the emissions year during which the transfer happened, and will need to be notified to the Administrators.

Article 14 determines the date the structure of the organisation is established.

[12] In Northern Ireland, schools will be APs of the Education and Skills Authority

2.3 Principal Subsidiaries

It is likely that some CRC participants will be composed of a number of legally defined subsidiaries that would be large enough to qualify for the scheme in their own right. To account for this, Government defines a 'Principal Subsidiary' as an undertaking that would have qualified for the scheme were it not part of a larger group either within the public sector as part of, for example, a Government department, or the private sector as a distinct legal subsidiary. Therefore, any subsidiary undertaking of a participant that used at least 6,000 MWh of half hourly electricity in 2008 will be classed as a 'Principal Subsidiary'. The subsidiary would be classified as a Principal Subsidiary even if it were eligible for CRC exemption under the CCA group member exemption.

Government intends to address three key issues identified in the policy design consultation through the inclusion of the Principal Subsidiaries rules, as set out in the Government response to that consultation, namely:

1. To avoid significant emissions being lost from the scheme for the remainder of the phase where the subsidiary is sold to a non participant, Government proposes to transfer the responsibility for participating in the scheme with the sale of the Principal Subsidiary.

2. To better reflect a participant's performance in the Performance League Table and revenue recycling process (see sections 7 and 8) Government proposes to amend historic emissions profiles to reflect the sale or purchase of Principal Subsidiaries.

3. To maximise the leverage of reputational and CSR drivers for energy efficiency improvements in these subsidiaries (which may be well-known brand names), Government proposes to publish their results as an annex to the main Performance League Table.

Government's intention is that the participant will have specific obligations as regards these Principal Subsidiaries. In particular, Government proposes that the participant will need to declare to the Administrators at the time of registration whether it has any 'Principal Subsidiaries' and, on an on-going basis, report a separate total energy use emissions figure for each subsidiary (see section 9.2.4). To minimise administrative burdens, Government proposes that CRC organisations would not be asked to report in respect of each Principal Subsidiary's turnover, extent of automatic metering, breakdown of fuel sources and other factors. The Principal Subsidiaries will not appear in the main Performance League Table for revenue recycling purposes.

Since Principal Subsidiaries would, in any case, be monitoring their energy use in order to enable their group to satisfy the scheme's reporting requirements, reporting

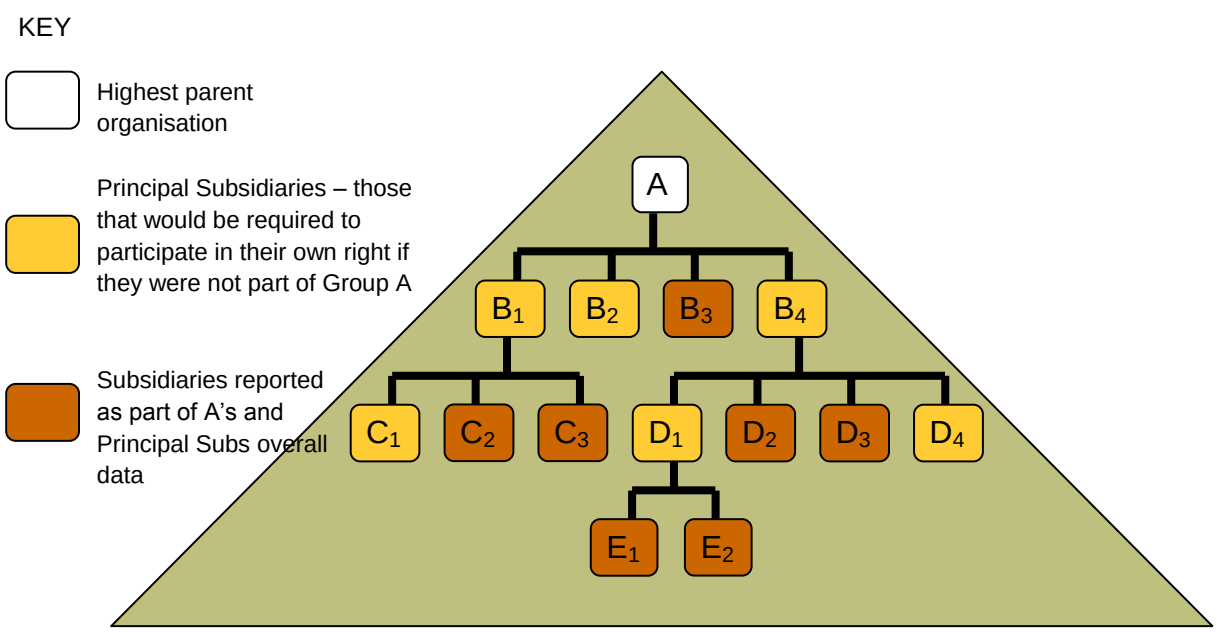
the total energy use emissions figure for each Principal Subsidiary should not add significantly to organisations' administrative effort.

Emissions from any subsidiaries that sit below the Principal Subsidiary would count towards the emissions total of the Principal Subsidiary. Where a Principal Subsidiary itself has subsidiary undertakings large enough to qualify, these also would be classed as Principal Subsidiaries.

Any such subsidiary that is owned by an organisation at the end of the qualification year will be deemed to be a Principal Subsidiary of that participant.

Article 2 and Schedule 16 of the Draft Order deal with the classification of Principal Subsidiaries.

Box 2.2: Establishing Principal Subsidiaries



The diagram above is an illustrative organisation structure for the Group Organisation A as at midnight on 31 December 2008 (the end of the Qualification Year). The Group will participate in CRC and will be responsible for all CRC eligible emissions across the organisation. It will be required to report a total emissions figure that includes all the energy use emissions from all its subsidiary organisations and for cancelling allowances that corresponded with these emissions.

Subsidiaries B_1, B_2, B_4, C_1, D_1 and D_4, all consumed at least 6,000MWh of half hourly electricity in 2008 and therefore would have qualified for the first phase of the scheme in their own right, had they not been part of Organisation A. These

subsidiaries will be classed as 'Principal Subsidiaries' for the purposes of the Introductory Phase and will be subject to the proposed 'Designated Changes' rules outlined below. In addition to reporting an emissions figure for its whole group, Government proposes that organisation A would also be required to separately report the emissions from any Principal Subsidiary within its group as part of its annual emissions report (see section 9.2.4). Organisation A would therefore be required to report separate energy use emissions figures for subsidiaries B_1, B_2, B_4, C_1, D_1 and D_4. The Principal Subsidiaries would need to include emissions from any subsidiaries that sit below them. For example, B_1 will need to include emissions from C_1, C_2 and C_3.

Question 1. **Do you agree that organisations should have to report total energy use emissions from their Principal Subsidiaries?**

Yes / No / Don't know

If no, please explain your reasoning

- **Does the wording in the Draft Order (Article 2 and Schedule 16) around Principal Subsidiaries lead to any unforeseen consequences?**

  Yes / No

  If yes, please explain your reasoning

2.3.1 Purchase or Sale of a Participant or Principal Subsidiary - Transferring Scheme Obligations (Designated Changes)

As stated in the Government response to the CRC policy design consultation, Government is committed to avoiding the administrative burdens of site based changes of operation. This experience is based on the challenges previously encountered in the voluntary pilot UK ETS scheme, which included only around 30 organisations, where changes of operation would reflect in transfer responsibility for emissions. By comparison, CRC is expected to cover between 4,000 and 5,000 organisations and the administrative impact would be correspondingly higher if this approach was adopted. However, Government is proposing to account for large changes in CRC participant structures featuring entire participants or Principal Subsidiaries.

As discussed above, CRC will place an obligation on the group to report on all the group members that sit within its structure. Given the nature of business and organisational change there will be instances where the parent of a group or Principal Subsidiary changes, for example if it is bought by a non-CRC participant or is subject to a management buy-out. Government proposes that the scheme will cater for large scale organisational change featuring participants or Principal Subsidiaries ("Designated Changes") and will transfer the responsibility for participating in the scheme to the purchasing organisation. If Government did not transfer responsibility for participating to the buying organisation then significant quantities of emissions would be lost from the scheme for the remainder of the phase if a participant or principal subsidiary was purchased by a non-participating organisation. Furthermore, by transferring responsibility to another participant, Government will be able to update historic emissions baselines and better reflect a participant's performance in the league table and revenue recycling payments.

Where a transfer involves a Principal Subsidiary, the emissions from that subsidiary's core sources and the proportion of the original participant's 'Additional sources of energy' (see section 4) associated with the principal subsidiary will be transferred to the new participant.

Government proposes that in the case of organisational change involving whole participants or Principal Subsidiaries, the responsibility for participating in the scheme will transfer to the new group/owner. The participants affected will be required to inform the Administrators of this change. However, if a participant sells a smaller non-principal subsidiary, or transfers assets to a non-participant, there would be no transfer of obligations and the participant would not be required to notify the Administrators. Government does not propose to account for these types of organisation change due to the significant administrative burden it would create for participants in terms of tracking emissions and reporting each change to the Administrators.

There are essentially two types of transfer of responsibility which would be accounted for by the scheme's 'Designated Change' mechanism; those where a participant or Principal Subsidiary is sold to, taken over by or merges with a non-participant; and those where the transfer occurs between existing participants. These are dealt with in turn below and in more detail in Annex 1.

2.3.1.1 Transfers involving a participant and a non-participant

Where a participant or principal subsidiary merges with or is taken over by a non-participant, the purchasing organisation will become a new CRC participant. Responsibility for complying with the scheme will transfer to the new owner. In these instances the new owner will be required to register for the scheme. However, the new owner will have to report emissions only from the original participant. It will not have to report on emissions from parts of its business that were not previously included in the scheme until the start of the next phase (if it qualifies at that time).

The scheme's Designated Change rules will cover three types of change involving both participants and non-participants:

i. Existing participant taken over by non-participant

ii. Principal subsidiary taken over by non-participant

iii. Mergers between a participant (or principal subsidiary) and a non-participant

2.3.1.2 Transfers between participants

Takeovers, sales and merger will also occur between organisations that are existing participants within the scheme. In these instances the 'Designated Change' mechanism will allow participants' historic emissions baselines and revenue recycling calculations to be adjusted to allow for the change. It will also allow for the creation of new participants where a demerger of a principal subsidiary, or the merger of existing participants to form new entities, occurs. Four different types of change would be accounted for involving the transfer of emissions between participants.

i. Participant purchased by another participant

ii. Principal subsidiary of one participant taken over by another participant

iii. Principal subsidiary becomes a stand-alone entity (de-merger)

iv. Merger between two participants (or participating Principal Subsidiaries)

Article 47 and Schedules 16 and 17 define the takeovers, mergers and de-mergers relevant to CRC ('Designated Changes') and their effect with regards to the scheme.

2.3.1.3 Timing of Designated Changes

Designated Changes are deemed to have taken effect at the start of the emissions year during which the change took place. Where a participant or Principal Subsidiary is purchased by another party in the middle of the year, the purchasing organisation that owns the Participant or Principal Subsidiary at the end of that emissions year would need to report and surrender allowances for the original participant or Principal Subsidiary for the entire year. Doing so will reduce the administrative burden on both the seller and the buyer of the organisation, avoiding the buyer and seller having to negotiate and calculate the share of emissions that each would take on. It will also make it simpler to adjust both the revenue recycling and historic emissions baselines to reflect the transfer. Whilst the new parent will have to surrender allowances corresponding with a full year of emissions from the entity it has purchased, its recycling payment would reflect the purchase.

To reduce administrative burdens only Designated Changes are deemed to take place at the start of the year. The purchase or sale of a non-Principal Subsidiary or site would be deemed to take effect at the time of the purchase and the purchasing organisation would need to report and surrender allowances to cover the part of the year for which it owned it.

When a Designated Change takes place any affected participants must notify the Administrators within three months and provide details of the date the change took place and the other parties involved.

Article 47 and Schedule 17 of the Draft Order address the timing of Designated Changes.

Question 2. **Do you agree that Government should transfer the responsibility for participating in the scheme with the purchase of participants and Principal Subsidiaries?**

Yes / No / Don't know

If no, please explain your reasoning

Question 3. **Do you agree that designated business change should be deemed to have taken place at the start of the emissions year?**

Yes / No / Don't know

If no, please explain your reasoning

2.4 Treatment of business groups

Government is mindful of the complex structure of many businesses and has therefore drawn on existing company law to provide a clear definition of the CRC participant for private sector organisations. Many CRC participants will be groups made up of a number of different legally defined subsidiary undertakings grouped together under a highest parent organisation.

The scheme identifies highest parent companies with reference to the definitions of parents and subsidiaries as set out under section 1162 of the Companies Act 2006[13]. Most businesses operating in the UK should already be familiar with these definitions and will be producing annual reports in line with the requirements of the Companies

[13] See Companies Act 2006 - http://www.berr.gov.uk/bbf/co-act-2006/index.html

Act 2006. Establishing such an organisational 'group' for CRC purposes should be relatively straightforward and mirror the structure required as part of their existing business obligations.

In the case of a group company structure, the emissions from any operations that a subsidiary has in the UK are covered by CRC as part of the parent company's participation. Emissions from either a parent's or a subsidiary's overseas operations will not be included in the scheme.

Government proposes that all business entities will be grouped in a similar way, including those that are not covered by the Companies Act 2006. The Companies Act 2006 tests will be used to determine highest parent organisation. Subsidiaries belonging to the highest parent will be grouped together to participate as one entity. This will include limited liability partnerships (LLPs), private equity funds and sole traders, but will not include individuals or groups of individuals. Note that Government considers that it would very unusual for a sole trader to consume enough half hourly electricity to be included in CRC.

Article 7 and Schedule 2 of the Draft Order define parents and subsidiaries.

Question 4. **Does the wording in the Draft Order (Article 7 and Schedule 2) around the treatment of business groups lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

2.4.1 Treatment of franchise agreements and other vertical distribution agreements

2.4.1.1 Overview

Government intends to impose obligations on both parties to a particular type of business arrangement where one person is trading under the corporate image and direction of another person, often known as vertical distribution agreements. In these instances, the parties to the contract do not belong to the same group structure and are only linked by a particular type of business contract. Government intends to consider parties to these agreements as one entity, and assign responsibility for emissions to one party of the agreement.

The rationale underpinning this decision is mainly related to the nature of these agreements, where the parties generally share a common trading image and where one party to the agreement (a superior party) has the potential to influence the way in which energy is used by the counterparty to that agreement. Placing responsibility with the superior party to the agreement maximises leverage of reputational and corporate social responsibility drivers, given that the public recognises the brand and will often not be aware of business arrangements such as franchising agreements. This approach is in line with the overall aim of CRC – to drive improvements in energy efficiency and deliver cost-effective carbon savings.

The Government Response to the CRC policy design consultation committed to ensure that large non-energy intensive franchise-based organisations participate in CRC, with franchisors taking responsibility for the emissions of their franchisees.

The rationale for including franchising agreements within CRC applies to a variety of business models in use in the UK business sector. These models include franchising, those often known as vertical distribution agreements and models such as distribution or licence agreements, where the parties exercise their business at different levels of the distribution chain.

Government considers that these agreements commonly include some degree of influence on the way in which the 'franchisee' carries out activities at its premises. This level of influence can indirectly impact the way in which energy is used. Government accepts that influence would be indirect in the majority of instances. In many types of vertical distribution agreement, the 'franchisor' requires 'the franchisee' to equip and present the premises where it exercises its business according to a pre-defined business format. Government considers that this element can be used as a proxy to indicate a degree of influence on energy management choices.

As a communication shorthand, Government proposes to label these agreements as 'franchising'. However, within the Order (see Paragraph 6 of Schedule 3), we have sought to establish a definition that would capture franchising and other types of similar vertical distribution agreements.

Government has been in dialogue with a number of organisations in the fast food, retail, telecommunications, automotive, mail delivery, and oil and gas sectors, as well as trade associations, which has informed the proposed approach, set out below.

In relation to qualification, this approach would entail that the half hourly metered electricity consumption from all of the franchisee operations would need to be aggregated with that of 'the franchisor' (the brand organisation). If the total half hourly electricity collectively met or exceeded the 6,000MWh inclusion threshold over the course of the qualification year, the franchisor organisation would qualify for CRC. The 'franchisor' would then participate in CRC including any energy use incurred at franchisee premises within its CRC energy use portfolio.

Definition of franchise agreements

The CRC Draft Order introduces a definition of franchise in Schedule 3 that is essentially based on the following key elements.

- The existence of an agreement between parties operating at different levels of the distribution chain and where, as a result of that agreement:
- "The franchisee" conducts its business by either selling or distributing goods, or providing services, in accordance with the agreement; and
- "The franchisee" equips or presents its premises as instructed by "the franchisor", so that all the premises connected to "the franchisor" have a uniform internal appearance, which the public would identify with "the franchisor".

Question 5. **Do you agree that the proposed definition of franchising (see Paragraph 6 of Schedule 3) achieves the stated CRC policy goal of including large franchise based and similar organisations?**

Yes / No / Not Sure

If no, please explain your reasoning and suggest a workable alternative approach which could achieve these objectives

- **Does the proposed definition of franchises lead to unforeseen consequences, if so, what?**

Box 2.3: Examples of the treatment of 'franchises' in CRC

In the automotive sector, car dealerships generally operate under a selective or exclusive distribution agreement. Irrespective of the classification of the agreement, car dealerships would be included in CRC, with their energy use emissions allocated to the car manufacturer brand, if the distribution agreement meets the requirements of the franchising definition outlined above (i.e. the manufacturers, as part of the distribution agreement, instruct the dealer in respect of the way premises are equipped and presented to customers). This, of course, assumes that the car manufacturer is sufficiently large (with UK half hourly electricity use exceeding the qualification threshold) to be a CRC participant. It also assumes that, whilst certain subsidiaries of the car manufacturer may be exempt on account of having Climate Change Agreements, the car manufacturer has a highest parent company that is not wholly exempt.

In the oil industry, petrol stations may operate under a licence agreement or a dealership agreement. Even though these agreements are not legally regarded as franchising, for the purpose of CRC they would nonetheless have to be assessed against the CRC legal definition of franchising agreements. In most instances, the oil company provides the dealer (petrol station) with a provision of fuels and with a licence to use the brand on site, but does not instruct the petrol station dealer as to how to equip or present the premises – in which case the energy use at these petrol stations would not be the responsibility of the relevant oil company within CRC.

In the mail delivery industry, post offices operate under a variety of legal agreements and models. Under the proposed approach, only in those instances where the post office premises are equipped and presented in a uniform way, as instructed by the service provider, would the post office energy use emissions be grouped as part of the responsibility of the service provider.

2.4.2 Overseas Ownership

Government wishes to avoid giving differential treatment to organisations owned by overseas parents. Government has therefore decided that – irrespective of whether the highest parent organisation is based in the UK or overseas – if the UK half hourly electricity use of the highest global parent organisation (based on any UK half hourly electricity from the parent and any of its subsidiaries) exceeds the proposed CRC inclusion threshold, then the organisation will qualify for CRC and will need to nominate a UK-based group member to be the organisation's 'Primary Member'.

For example, in the case of a US-based parent organisation with multiple UK subsidiaries and operations – where the total UK half hourly electricity use exceeds the inclusion threshold – the UK energy use of these bodies would be grouped to form a single CRC organisation (effectively, the 'UK arm' of the overseas based business). Government proposes that such a CRC undertaking will be required to nominate a leading UK subsidiary - or, alternatively, a proxy/agent for service in the UK – who will act as the 'primary member' for the purposes of administering the scheme. This would apply equally to situations in which an overseas based business owns, for example, a larger number of UK subsidiaries each under the qualification threshold and to situations where two subsidiaries are both above the qualification threshold. Principal subsidiaries of overseas companies will be considered as described above for UK companies. Importantly, this mirrors the approach that would be taken if the companies were wholly UK owned.

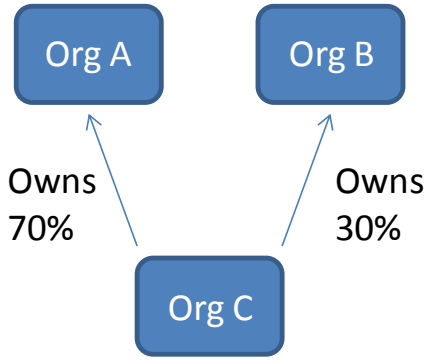
2.5 Joint Ventures and PFI

Government proposes that Joint Ventures and PFI/PPP/BDFO arrangements (where there is no parent with a greater than 50% controlling stake) will participate as individual CRC organisations (where the inclusion threshold is exceeded). Responsibility would not be split between the shareholders. Therefore, where no single organisation owns a majority share in a company, the company's electricity consumption will not be aggregated with that of its joint owners for the purposes of ascertaining eligibility for the scheme. This principle is clearly also relevant to private equity and venture capital contexts.

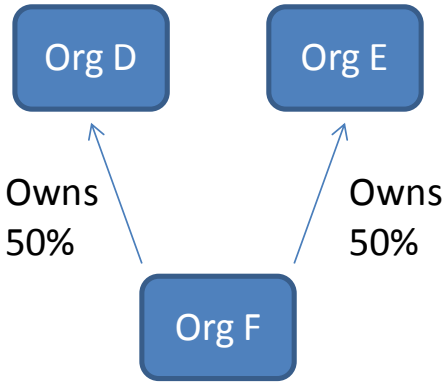
Article 7 and Schedule 2 (para 5 (d)) of the Draft Order deals with the classification of organisations with multiple owners.

Box 2.4: Treatment of Joint Ventures

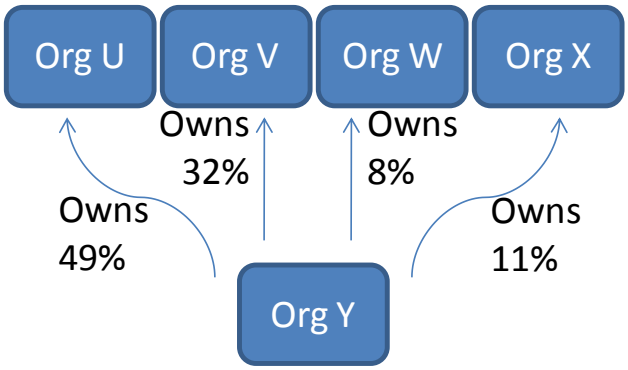
In the example below, Organisation C will be classed as a subsidiary of Organisation A as Organisation A owns a majority share in Organisation C.



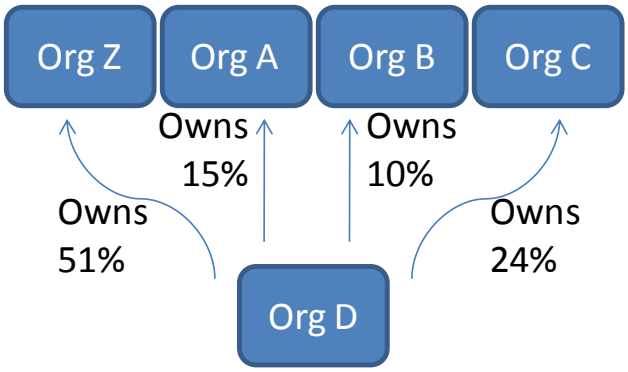
In the example below, neither stakeholder owns a majority share of Organisation F. In this situation, if Organisation F has an energy consumption of at least 6,000MWh through half hourly meters in 2008 then it will be a participant in CRC in its own right and so will report its own emissions. If Organisation F has an energy consumption below 6,000MWh through half hourly meters in 2008 then its emissions will not be reported under CRC, even if Organisations D or E are participants.



In the example below Organisation Y is also a participant in its own right because none of the stakeholders hold a majority stake.



In the example below, Organisation Z reports the emissions for Organisation D as it is the majority stakeholder, owning a larger than 50% share of the company.



Question 6. **Do you agree with the proposed policy approach as regards determining ownership of Joint Ventures and PFI?**

Yes / No / Don't know

If no, please explain your reasoning and suggest an alternative approach which achieves Government objectives and is in line with the overall aim of the scheme

2.6 Definition of Public Sector Organisations

The public sector accounts for 10-12% of emissions covered by CRC. Analysis commissioned by Government indicates that a significant opportunity exists for the UK's public sector to reduce its energy usage and carbon emissions. Modelled figures indicate potential CRC-related savings across the sector of roughly 400,000 tCO_2 per annum by 2015.

Government is mindful of the diverse range of legal structures to be found across the public sector. This diversity raises sector specific challenges in targeting the appropriate organisational structures to deliver effective emissions reductions.

Following the previous two consultations Government intends to use the following general principle in determining public sector participants: each public sector organisation with its own distinct legal status will enter the scheme in its own right, providing it meets the qualification threshold. Government believes that the legal status method will maximise the financial and reputational drivers for organisations to reduce their carbon emissions.

The exceptions to this principle are:

- Where Government has decided, in order to demonstrate leadership, that all UK central Government Departments will be included in their own right, even if they do not meet the qualification threshold;
- That schools will be grouped with their Local Authority (using the Associated Person and Responsible Person provisions) or in Northern Ireland under the Education and Skills Authority; and
- That Government proposes that all the colleges of Durham University, The University of Oxford and the University of Cambridge, will be grouped with their respective universities.

As with the business sector, Government proposes to use the CRC default position of the 'highest parent organisation' to identify public sector participants in the scheme.

2.6.1 Central Government departments, Executive Agencies and Non-Departmental Public Bodies

As announced in March 2008, Government has decided to demonstrate its commitment to taking a leadership role and to reducing energy use emissions from the Government Estate by mandating the inclusion of all UK Central Government departments in CRC, regardless of whether they meet the inclusion threshold or not. CRC would provide Government departments with an important tool for achieving their 30% absolute emissions reductions targets by 2020, with those departments performing well against this target also expected to perform well under CRC.

Part 2, Chapter 2 of the Draft Order defines the mandatory participation of Government departments.

Following the general principle for determining public sector participants, Central Government departments and those entities without a separate legal identity will participate under the grouping of their Secretary of State, whilst legally independent entities such as Non-Departmental Public Bodies and public corporations, will participate separately where they meet the CRC qualification threshold.

In certain instances grouping subsidiaries of Government departments together would be legally and/or administratively challenging for the departments to operate and would lead to a weakening of CRC's financial and reputational drivers. In such instances, such as the case of companies partly or wholly owned by Government, Government is proposing that in certain specific instances, Government participants will be able to disaggregate their subsidiaries to allow them to participate as separate entities. It is noted that in these instances there would be no loss of coverage from the scheme. The subsidiaries will still qualify for the scheme (irrespective of their size) but will then operate in the scheme as a separate entity.

Government believes that this is a straightforward approach that should include the majority of public sector emissions, and only exclude those from smaller organisations, maintaining CRC's emphasis on the largest organisations for whom energy efficiency benefits should significantly outweigh administrative costs. Government therefore believes this approach should put the right emphasis on the financial and reputational drivers in Central Government and public bodies.

2.6.2 Collegiate universities

Following the previous consultation Government commissioned an independent analysis of CRC organisation structures in the public and private sectors.[14] This analysis made recommendations on how CRC should cover further and higher education organisations, including collegiate universities.

The analysis concluded that whilst the reputational drivers are most effective when applied to the legal entity level for the vast majority of Higher Education institutions there are some examples where this is not the case. In the case of three collegiate universities (Oxford, Cambridge and Durham), Government proposes to group all colleges as part of their respective university. The university colleges will be grouped together to form the participant in CRC. The colleges will be "*Associated Persons*" and must report their annual energy use data to their university (as part of fulfilling a legal duty under CRC of providing 'reasonable assistance' to the CRC participant organisation). This information will be necessary to enable the university to calculate and report its total emissions under the scheme. Like other CRC Associated Persons (and CRC participants), a college will have the right to an annual energy statement from its energy suppliers in respect of electricity and gas use – which they could then forward to the university, as part of their data reporting.

Government proposes that all Oxford, Cambridge and Durham colleges should be grouped with their respective universities in order to best leverage reputational drivers, as the universities have a higher name and brand recognition than their colleges.

In the case of collegiate universities such as the University of London each individual college (for example, King's College London or University College London) has a high degree of public visibility and their own distinct reputation. Government considers that it would not be an effective use of the reputational driver to simply group all University of London colleges under the 'University of London' for the purposes of CRC.

In line with Government's proposal to group Oxford, Cambridge and Durham colleges as part of their respective universities, a provision has been included at Schedule 3 of the Draft Order. This schedule identifies the colleges which will be treated as 'Associated Persons' for the purpose of the scheme.

Question 7. **Are there any other collegiate universities where it would also be beneficial for independent colleges to be grouped as part of the university?**

[14] "Analysis of CRC organisation structures in the public and private sectors" Defra, March 2008 - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

Yes / No

If yes, please explain your reasoning along with the specific examples

2.6.3 Schools and Local Authorities

Following the previous consultation in June 2007, Government announced in July 2008 that state-funded schools will not participate in CRC individually – in England, Scotland and Wales, their emissions will be included in the scheme within the portfolio of participating Local Authorities (LAs). Government believes that the public sector should demonstrate leadership in carbon reduction, and that schools have a particularly important role to play in this regard. Participating LAs would be responsible for emissions from all schools maintained by the LA and any Academies and City Technology Colleges situated in their area. In this way, school emissions will form part of the Local Authorities' total emissions under the scheme. Schedule 3 of the Draft Order provides the powers to group schools with Local Authorities. Within this schedule schools are described as an Associated Person of a Local Authority.

The Local Authority will be defined as the CRC participant and the legal and financial responsibility for participating in the scheme will fall onto the LA. Where the school (or the LA) is the counter-party to the energy supply contract, this energy use will count as part of the Local Authority's CRC footprint. Note that in cases of PFI schools, where the PFI company is counter-party to the energy supply contract, the energy use will be attributed to the PFI company (if the PFI company is large enough to pass over the CRC threshold). On grounds of administrative simplicity, where a PFI company is the counter-party to the energy supply contract, Government does not propose requiring this energy use information to be included within LA CRC footprints. This is consistent with the default emissions responsibility rule that operates throughout the scheme.

Government proposes that schools will be subject to the "reasonable assistance duty" applicable to all Associated Persons (set out at Part 2, Schedule 15 of the Draft Order), and expects that, as part of this, schools should supply the LA with their data on annual energy use in a timely manner. This information is necessary to enable the LA to calculate and report its total emissions under the scheme. This data will need to be provided once a year, for example in the form of energy bills. Note that, to help reduce the administrative burden, a school would be able to request an annual energy statement from its energy suppliers in respect of electricity and gas use – which they could then provide to the LA.

Schools in Northern Ireland will be included under the Education and Skills Authority.

Question 8. **Do you agree that schools should report annual energy use data to LAs as part of the wider Associated Person 'reasonable assistance duty'?**

Yes / No / Don't know

If no, please explain reasoning and propose a more suitable alternative

- **Does the Draft Order lead to any unintended consequences?**

Independent schools in Great Britain, with the exception of Academies and City Technology Colleges referenced earlier, will **not** be grouped under Local Authorities. Independent schools will only participate in CRC if they or their highest parent organisation (including its school(s) as if they were subsidiaries) passes the CRC qualification threshold of 6,000 MWh/year of half hourly metered electricity use. Their electricity usage would have no bearing on Local Authorities' involvement in CRC.

2.6.4 NHS

Government proposes that NHS organisations that are legally distinct entities and that meet the qualification criteria will participate in their own right. The legal definitions of health service organisations differ between England, Wales, Scotland and Northern Ireland.

In England, Government suggests defining NHS bodies as specified by the National Health Service Act 2006. This defines the following legally distinct entities:

• Strategic Health Authorities

• Primary Care Trusts

• NHS Trusts

• Special Health Authorities

• NHS Foundation Trusts

In Northern Ireland the legal status of NHS organisations falls into three groups: Regional Health Boards, NHS Health and Social Care Trusts and Health Agencies. These organisations are accountable to the Northern Ireland Department of Health, Social Services and Public Safety.

In Scotland the legal status of NHS organisations falls into two groups. These are NHS Boards and Special Boards. These organisations are accountable to the Scottish Health Directorates.

In Wales the legal status of NHS organisations falls into three groups, all of which are accountable to the Department of Health and Social Services (DHSS) in the Welsh Assembly Government. These are: DHSS Regional Offices, Local Health Boards and NHS Trusts. In addition the Health Commission Wales and the National Public Health Services for Wales are separate legal organisations.

All of the organisations described above have separate legal status and as such they will participate in CRC individually provided they meet the CRC qualification criteria.

Question 9. **Do you agree with the proposed approach for NHS organisations participating in CRC**

Yes / no / don't know

If not, please explain your reasoning.

2.6.5 Police Authorities

Police Authorities are independent bodies whose members are a number of individuals (local councillors, independent members, magistrates) and are the legal entities covering the police force.

If a Police Authority is the counterparty to the energy supply contract for its police force, it would be the CRC participant if the qualification threshold is met.

2.6.6 Fire Authorities

Where Local Authorities have been legally designated as a County Fire Authority, the fire service will participate in the scheme as part of the Local Authority where the Local Authority meets the qualification threshold. Fire & Rescue Authorities and Metropolitan Fire & Defence Authorities have their own separate legal status and will participate in the scheme individually, with their brigades, where they meet the qualification threshold.

2.6.7 Application to the Crown

The Crown will be included in CRC, subject to certain conditions within Schedule 27 of the Draft Order. The specified limitations are considered essential in the interests of national security, and relate to:

- record keeping;

- responding to the Administrators' enquiries; and
- providing the Administrators with access to records for audit.

In addition, the Administrators' powers of site inspection may be restricted if certified by the Secretary of State. The Draft Order also makes provisions for the exemption of the Crown to the criminal liability in Schedule 26.

2.6.8 Public sector organisational change

The Designated Change rules, set out in Section 2.3.1 of this consultation, describe a framework for moving emissions baselines associated with CRC participants or their Principal Subsidiaries to other CRC participants in the event of sales, mergers, acquisitions and transfers. Government believes these rules and the Growth Metric deal adequately with those structural changes likely to occur in the public sector involving existing CRC participants.

The Designated Change rules do not however account for those situations where new public sector entities are created, the most significant and common being a 'machinery of government' change where a new central Government department is created. In these circumstances Government proposes the new participant enters CRC in the same manner as a business transferring from a CCA exemption to CRC inclusion, whereby the next reporting year is treated as both a footprint and compliance year for that participant, along with the required compliance activities. Part 2, Chapter 2 of the Draft Order defines the treatment of a new Government department.

2.7 Treatment of Landlords and Tenants

2.7.1 Overview

The Government Response to the CRC policy design consultation committed to include landlord organisations in CRC, where such organisations pass the CRC qualification threshold. Government intends to assign responsibility for energy use emissions within CRC to the CRC organisation that is the party to the energy supply contract. Responsibility for energy use emissions will be assigned as follows:

- Where the landlord is part of a CRC organisation and is the counterparty to the energy supply contract for the energy supplied to its tenant(s), then that CRC organisation will be responsible for the energy use emissions incurred by the tenants;
- Where the tenant is the counterparty to the energy supply contract, and is part of a CRC organisation, then that CRC organisation will have responsibility for the energy use emissions of the tenant.

For example, in the case of multi-let office buildings, the landlord is likely to be the counter-party to the supply contract, while in the retail sector, the occupier of large stores such as supermarkets will often be the counter-party to the energy supply contract for the premises it occupies.

Large landlord organisations will therefore be responsible within CRC for any energy use where they are the counter-party to the supply contract, including where that energy is ultimately used by large or small tenants. This approach is administratively simple in terms of who is responsible for which energy use emissions, and intentionally does not impose CRC administrative burdens on small tenant organisations.

More details on the potential impact of CRC on landlord and tenant's energy efficiency practice and role of good practice guidance are outlined in Annex 2.

2.7.2 Emissions accounting within CRC (between Landlords and Tenants)

The Government response to the CRC policy design consultation indicated that Government was considering the option of allowing – on a once per phase basis – CRC landlords and CRC tenants to agree to transfer responsibility for specific energy consumption included in CRC from the landlord to the tenant, providing certain conditions were met. The proposal was that the following conditions would all have to be met:

- The landlord is counter-party to the energy supply contract (in respect of the tenant's energy use), and both landlord and tenant are part of a CRC organisation;
- Appropriate sub-metering is in place, so that both landlord and tenant know how much energy is being used;
- Both the landlord's CRC organisation and the tenant's CRC organisation agree that they would like to transfer responsibility for that energy consumption from the landlord CRC organisation to the tenant CRC organisation;
- Agreement would need to be reached in sufficient time in order to apply for the transfer in respect of a forthcoming phase.

There have been mixed views amongst both landlords and tenants about the suitability of this transfer option. In principle, some stakeholders have indicated that this could potentially be a useful option. At the same time, however, concerns have been raised about the legal complexities and additional administrative burdens associated with it, and in particular the implications for the scheme, and for both landlords and tenants, of lease periods not aligning with scheme phases.

Having given this policy area further consideration, and having assessed the feasibility and practicalities involved with transferring responsibility for energy consumption, Government proposes not to proceed with the option of allowing limited transfers of responsibility from landlord to tenant. Government is mindful of stakeholders overall preference for as simple a scheme as possible – and is particularly concerned about the additional administrative burdens and complexities that would result from implementing this option[15].

One option for the possible transfer of emissions is that the arrangements for this would be required to be in place prior to the beginning of each phase. The transfer would be based on energy consumption in the footprint year, and that the transfer would form part of the Footprint Report. It is at this stage that participants identify which emissions are going to be covered in the forthcoming phase of CRC (more details on emission coverage are outlined in section 4 of this consultation document. The Footprint Report is dealt with in section 9).

However, by their nature, tenancy agreements are not permanent. Therefore, the transfer of emissions that takes place in the footprint year could potentially be subject to one or more changes in the subsequent years of the same phase. In order to ensure that whenever the tenant changed during a phase there was no net loss of emissions from the scheme, responsibility for the energy use emissions would have to be transferred back to the CRC landlord organisation.

To avoid either loss of emissions coverage or penalising landlords, this approach would also require the updating of both historic baselines and the landlord's source list. If the historic emissions of the landlord were not updated to reflect the termination of a tenancy with an existing CRC transfer agreement, this would have a negative impact on the landlord's performance. Government is proposing to undertake such updates only for large organisational changes (see section 2.3.1 and 8.5.3), in order to minimise the administrative burdens, and does not propose them in this situation.

An alternative option would be for Government to require landlord organisations to include 100% of their tenants' energy consumption in the Footprint Report and then allow the transfer of responsibility to tenants at a later stage during a phase. Government considers that this option is unacceptable, as landlord organisations' performance could be distorted and appear to have achieved energy efficiency savings where no such improvements had in fact occurred.

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[15] As stated in the Government response to the CRC policy design consultation, Government is committed to avoiding the administrative burdens of site based changes of operation wherever possible. This experience is based on the challenges previously encountered in the voluntary pilot UK ETS scheme, which included only around 30 organisations, where changes of operation would reflect in transfer responsibility for emissions. By comparison, CRC is expected to cover between 4,000 and 5,000 organisations and the administrative impact would be correspondingly higher if this approach was adopted.

Question 10. **Do you agree with Government's proposal not to proceed with the option of allowing limited transfers of emissions responsibility from the landlord to the tenant?**

Yes / No / Not Sure

If no, please explain reasoning. Do you have alternative proposals that would ensure fairness, transparency and that would not reduce the emissions coverage of the scheme, or increase the administrative burdens?

2.8 Domestic Households

Government does not propose to include energy-use emissions from domestic households in CRC. The scheme was not designed to target this sector, as Government has imposed an obligation - the Carbon Emissions Reduction Target - on energy suppliers designed to reduce CO_2 emissions from the household sector. Emissions from meters where the counter-party to the energy supply contract is a private individual are likely to be excluded on the grounds of failing to meet the qualification threshold, regardless of whether the household/domestic property is owned by a CRC participant.

Government intends to make a distinction between domestic household emissions and those emissions resulting from the provision of accommodation for either work, educational, religious, medical and recreational purposes, such as hotels, military barracks and university halls of residence. As a result it is Government's intention not to include emissions from property where the primary use (i.e. majority of a building's utilisation) is domestic residential accommodation. This would obviously exclude district heating schemes servicing residential accommodation and the lighting of communal areas in a block of flats. Emissions from accommodation provided for work, educational, religious, medical or recreational purpose would be included within the scope of CRC, where the counter-party to the supply contract meets the qualification criteria.

Government therefore intends to ensure that the small number of cases where domestic residential property may be currently included, according to the Draft Order, will be excluded. We will work with stakeholders during the consultation period to this end.

Question 11. **Do you agree with the proposed approach to domestic households?**

Yes / No / Don’t know

If no, please give your reasons

Are there aspects which Government needs to consider in taking forward this approach?

3 Qualification

Articles 6 to 12 of the Draft Order detail that certain Government organisations must participate in CRC irrespective of their size, to demonstrate commitment to carbon reduction. In addition, any other organisation as defined in the previous section that meets the criteria set out below must also participate subject to the exemption rules explained in section 5. This is provided for by Articles 6, 7 and 13 to 27 of the Draft Order.

3.1 The qualification criteria

As stated in the Government response to the CRC policy design consultation and the July 2008 CRC policy statement, Government proposes that an organisation will be included in CRC if it has:

- **one or more half hourly electricity meters settled on the half hourly market;**

and

- **total half hourly metered electricity use of at least 6,000 MWh over the course of 2008**

Accordingly, for the purpose of determining scheme qualification, Article 19 of the Draft Order defines "total half hourly metered electricity use" as based on all meters that monitor electricity consumption on a half-hourly basis (electricity consumed through half hourly meters for the purpose of complying with a supply, distribution, generation or transmission licence as defined under the Electricity Act 1989, should not be counted towards the qualification threshold (see section 4.2 for more details)). Specifically, we propose to include voluntary automatic meters that produce half hourly data and pseudo half hourly meters[16] (i.e. irrespective of whether the half hourly metered electricity is settled on the half hourly or non-half hourly market). This approach spreads energy efficiency effort more equitably across the large non-energy intensive sector, by including all organisations with large quantities of half hourly electricity use, irrespective of whether such electricity is mostly settled on the half hourly or on the non-half hourly market.

At the same time, the approach clearly retains the focus on large organisations for whom energy efficiency benefits should outweigh administrative costs. This approach firstly addresses the risk of large organisations failing to qualify for the scheme as a result of their half hourly electricity not being settled on the non-half hourly market. Secondly, it takes into account Government's decision to mandate the

[16] Pseudo half hourly meters are notably used for calculating the electricity consumed by some street lighting.

roll out of advanced metering capable of providing half hourly electricity and hourly gas data[17]. In light of such circumstances, the proposed approach should substantially reduce the number of new entrants to CRC in April 2013, thereby enabling Government to set a more accurate cap for the first capped phase.

The 'ownership' of the half hourly electricity is assigned to the organisation that is the counterparty to the contract with the energy supplier, in the same way that responsibility for emissions will be assigned during the scheme (see section 4.3). This means that the organisation, as defined in section 2, will be required to aggregate all the half hourly electricity consumed during 2008 at all the sites owned by subsidiaries that formed its group structure at midnight 31 December 2008/1 Jan 2009.

Question 12. **Does the wording in the Draft Order (Articles 6 - 27) around qualification lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

3.2 Disclosure of Half Hourly Metered electricity use

Government is considering two disclosure options for determining qualification based on electricity use. Both will use 2008 electricity for determining qualification[18]. Government is considering whether, for the purposes of determining qualification, organisations should disclose:

1. the total half hourly electricity use in 2008. This would include voluntary automatic meters that produce half hourly data and pseudo half hourly meters.

2. the total half hourly electricity use, *or* only the half-hourly electricity settled on the half hourly market if this alone is at least 6,000 MWh in 2008.

[17] This places a requirement on large non-domestic sites (electricity sites in profile classes 5-8 and gas sites with consumption of over 732 MWh) on a new and replacement basis from 6 April 2009, and in all cases by 6 April 2014. Further, Government will shortly set out its position on advanced metering for other non-domestic sites (those in electricity profile classes 3 and 4 or with gas consumption less than 732 MWh). Government has committed itself to requiring the provision of smart metering for all domestic customers, and has given an indicative timetable of the end of 2020 for completion of such provision.

[18] 2008 is not the baseline year, this is purely for determining which organisations are in the scheme.

Option 1 was proposed in the July 2008 CRC policy statement, and is reflected in Articles 13 to 27 of the Draft Order.

Option 2 is being considered after some organisations have questioned the benefit of disclosing all half-hourly electricity use, when electricity settled on the half-hourly market alone would take the organisation over the CRC threshold. Under this option, organisations whose 2008 half hourly settled electricity was below 6,000 MWh would still need to disclose their total half hourly metered electricity use.

Under both options, all organisations with at least 6,000MWh of half-hourly metered electricity would be included. The benefit of Option 2 is that it reduces administrative burden, without reducing scheme coverage.

Question 13. **Do you think that organisations with half hourly settled electricity of at least 6,000 MWh should have to disclose their total half hourly electricity (and, if not, that the Order should be amended accordingly)?**

Yes / No / Don't know

Any comments welcome

3.3 Non-participant obligation

To provide the Administrators with an audit trail of half hourly meters to track potential participants, all organisations with half hourly settled meters will be required to comply with a number of requirements set out in the schedule and submit, once per phase, a 'non-participant information disclosure' to the scheme Administrators by the registration deadline.

Any organisation that has at least one HHM settled on the half hourly market, but whose half hourly metered electricity consumption falls below the qualification threshold, has a legal obligation to provide the Administrators with details of its HHMs settled on the half hourly market. In addition, it will be required to disclose its total half hourly metered electricity where it equals or exceeds 3,000 MWh over the course of 2008. The submission of this data will aid Government in tracking potential new participants in future phases and setting appropriate caps. Articles 51 to 54 of the Draft Order define the provisions relating to non participant obligations.

3.4 Registration

Any organisation that meets the qualification criteria in relation to each phase of CRC, has a legal obligation to register as a participant. For the first phase participants must provide:

- The highest parent company name, contact address, email and contact points, number and registered address (where relevant and different from contact address)
- If not a company, its legal status
- Any Principal Subsidiaries and their contact details and any 'Designated Changes' that have occurred since 31 December 2008
- Details of any 'primary member' if different from the highest parent
- Its half hourly metered electricity consumption
- Its list of half hourly meters settled on the half hourly market. This will enable the scheme Administrators to identify a list of such meters that are unclaimed ("orphan meters") – so as to ensure that potential participants (organisations with one or more half hourly settled meters) consider whether they pass the inclusion threshold.
- Confirmation of the type of business activity it undertakes; and
- The name and address of three contacts, one at Director level and two at working level who the Administrators can deal with on behalf of the participant.

This information will need to be provided by the last working day of September 2010. For subsequent phases, the information must be provided by the last working day of the respective footprint year – for phase two this will be by the last working day of March 2012, for phase three, the last working day of March 2017.

Participants will be required to register online with the scheme Administrators via the CRC registry.

Qualification packs will be sent out by the scheme Administrators later in 2009 to HHM billing addresses and will provide further details of the registration process.

Where a 'Designated Change' leads to the creation of a new participant (through the purchase of an existing participant, Principal Subsidiary by a non-participant or demerger of a Principal Subsidiary) the new participant will be required to complete the registration steps as set out above.

Article 36 and Schedule 10 of the Draft Order outline a participant's registration requirements.

Question 14. **Does the wording in the Draft Order (Article 36 and Schedule 10) with regards to registration lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

4 Emissions Coverage

4.1 Overview

This section provides an explanation of the activities that are covered in CRC, how Government assigns responsibility for energy consumption to an organisation and outlines how Government proposes to regulate emission coverage. The section refers to Part 3, Chapter 1 of the Draft Order and related Schedules. Government has adopted a simple and straightforward approach to assigning responsibility for energy use by aligning it to the counterparty to the energy supply contract. In terms of coverage, the scheme focuses on fixed point energy use and excludes transport emissions. Government has tried to avoid any overlap between CRC and other existing carbon management schemes such as Climate Change Agreements (CCA) and the European Union Emission Trading System (EU ETS). As such, Government has defined a number of 'core' energy uses that must be included in the scheme and incorporated a number of exclusions to minimise emissions overlap with other existing climate change policy instruments and double regulation. As outlined in the Government Response to the CRC policy design consultation, Government will allow organisations to exempt small sources of emissions which could be covered by the scheme, through the inclusion of a 'applicable percentage' of emissions.

4.2 Definition of energy consumption

Government defines energy in CRC as; electricity; gas supplied to a customer through a pipe supply; and any other fuel listed in the table inserted in section 9.3.1 (see article 30, and Schedule 5 of the Draft Order). Government is proposing that a participant is deemed to have consumed energy where it has been supplied with electricity or gas. In the case of other fuels which are not supplied via the electricity or gas transmission networks, an organisation is considered to have used that fuel where it has been purchased, otherwise obtained, or delivered to the participant's premises (See article 31 and Schedule 6).

The Draft Order (Schedule 6) refers to the Electricity Act 1989 to define the concept of electricity 'supply'. By drawing on this definition, Government believes that electricity used by supply, distribution, generation or transmission licence holders as defined under the Electricity Act 1989, for the purpose of carrying out their licensed activities, is excluded from CRC. This will mean that electricity used, for example, as works power in power stations or in hydro-generating stations, is not classed as energy consumption for the purposes of the scheme. It will not need to be included when an organisation assesses its qualification consumption or in its footprint.

In line with the overall scheme objectives Government intends to capture other activities carried out by licence holders, such as running data centres, and performing administrative functions. Government understand that as a consequence

of the definition of electricity ‘supply’ outlined above, electricity used by licensed suppliers in any administrative function is included in CRC. We will be considering further the definition of ‘supply’ during the consultation and welcome feedback.

Furthermore, some activities are excluded from CRC (see 4.5 of this consultation document). Where a fuel is supplied, purchased, otherwise obtained, or delivered to a participant’s premises with the intention of being used in excluded activities, this fuel will not be deemed to be energy consumption under CRC. However, if at any time the intended use of this fuel changes, and the same fuel is then used in an activity covered by CRC, this fuel is deemed to be consumed.

Government invites views on its proposed definition of energy consumption, which are defined within article 31 and related Schedule 6 of the Draft Order.

4.3 Assigning responsibility for energy consumption

Government has adopted a simple and straightforward approach to assigning responsibility of energy consumption to a specific organisation.

In the case of electricity and gas supplied via the transmission network, Government assigns responsibility for energy consumption to the person that is the customer of a supply contract and receives the supply from the energy provider under that contract. ‘Customer’ is intended to be the person, or any representative, that is the counterparty to that supply contract (Schedule 6 of the Draft Order).

In those instances where an organisation does not buy energy directly, but purchases it through a third party buyer, the third party provider is not considered to be the person responsible for energy consumption procured. In the case of leased premises, a landlord cannot avoid being assigned responsibility for energy consumption procured for the leased premises (Schedule 6, paragraphs 4-6 of the Draft Order) solely on the basis of its landlord status.

4.4 Activities covered by the scheme

As set out in previous consultations and subsequent Government response documents, CRC applies to any activity undertaken for business or charitable purposes or the performance of a service of a public nature, which consists of or involves energy consumption (Article 29 of the Draft Order outlines the types of activities covered by the scheme). This definition implies that any activity can be captured by CRC, irrespective of the public or private nature that characterises an individual organisation.

In the same way as Climate Change Agreements, CRC covers both direct and indirect emissions. Direct emissions are from energy transformation processes on

the premises, whereas indirect emissions are those from energy transformation that occurs elsewhere, in particular due to electricity generation. Emissions covered by CCAs or EU ETS are not included in CRC (see below for further details on excluded activities).

4.5 Activities excluded from the scheme

Government proposes that a limited number of activities should be excluded from CRC. This means that energy consumed in one of those activities should not be included in the scheme. Participants that perform one or more of the activities listed below within their organisation will not have to buy allowances in CRC to cover the emissions generated from them.

4.5.1 Transport

As set out in previous consultations and subsequent Government response documents, Schedule 7 of the Draft Order provides for transport emissions to be excluded from CRC. The draft order defines energy used for the purpose of transport as:

"Consumption of energy in the transport of people or goods"

Government aims to ensure that certain types of equipment that may fall under this general definition are not unintentionally excluded from CRC. Paragraph 3 and 4 of Schedule 7 establish that the transport exclusion does not apply to the transport of people within a place of entertainment, recreation or amusement; culture, scientific, historical or similar interest. Furthermore, Government proposes that conveyor belts, lifts, escalators and any other similar fixed mechanism or device which is used to move goods or people from one part of a premises to another, are not deemed to be transportation.

4.5.2 EU ETS emissions

As set out in previous consultations and subsequent Government response documents, Schedule 7 of the Draft Order provides an exclusion for emissions covered by EU ETS. This exclusion ensures that a participant with emissions included in EU ETS does not also have to include the same emissions in CRC. This ensures that no participant will face double regulation of the same emissions.

Although EU ETS emissions are not included in CRC, and participants will not have to buy allowances to cover those emissions, they will need to be considered for the purpose of identifying the applicable percentage of emissions coverage during the Footprint Year. Section 4.6 of the consultation document discusses the applicable percentage of emission coverage in more details.

For further information on the treatment of electricity generation and use at EU ETS installations see section 9.4 of this consultation document.

Question 15. **Does the wording in the Draft Order (Schedule 7, Paragraph 1) around the exclusion of EU ETS emissions lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

4.5.3 CCA emissions

The exemption of CCA emissions is a feature of CRC which has been set out in previous consultations and subsequent Government response documents. Schedule 7 of the Draft Order provides an exclusion for emissions covered by CCAs. This exclusion ensures that a participant with emissions covered by CCAs does not also have to include the same emissions in CRC. This proposal ensures that there is no double regulation of the same emissions.

Although CCA emissions are not included in CRC, and participants will not have to buy allowances to cover those emissions, they will need to be considered for the purpose of identifying the applicable percentage of emission coverage during the Footprint Year. Section 4.6 of the consultation document discusses the applicable percentage of emission coverage in more details.

In addition to the exclusion of emissions covered by a CCA from CRC, Government also proposes a number of exemptions at organisation level based on the proportion of emissions an organisation has covered by its CCA. This is addressed in Section 5.2 of this consultation document.

Question 16. **Does the wording in the Draft Order (Schedule 7, Paragraph 2) around the exclusion of CCA emissions lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

4.5.4 Onward transmission

To ensure that the CRC does not cover fuel commodities purchased for trading purposes, Government proposes that where fuel is purchased for the following purposes it is excluded from the scheme:

- Supplying or delivering of the fuel to third party; or
- Consumption on premises outside the United Kingdom

This fuel is excluded from CRC and does not count towards energy used by a CRC participant. Schedule 6 in the Draft Order sets out the exclusion.

Question 17. **Does the wording in the Draft Order (Schedule 6, Paragraph 4 and 5) around the exclusion of fuels purchased for trading purposes lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

4.6 Calculating a Participant's CRC emissions coverage

In addition to excluding the emissions highlighted above, Government has decided that participants will not be required to include all their eligible emissions in CRC. This is to allow a certain degree of flexibility and to avoid the disproportionate administrative burden of identifying small energy sources with little impact on the overall total footprint emissions of an organisation.

Government proposes to define the 'footprint' of a participant as the emissions from all energy use, including consumption which is covered by EU ETS or a CCA, but excluding energy use from the other excluded activities outlined in Section 4.5 of this consultation document (namely energy used in transport and onward transmission).

Government proposes that there should be some types of energy use that participants would be required to include on a mandatory basis, while others would be optional. These are defined respectively as '**Core'** and '**Residual'** sources of energy. Core sources are those that participants are required to include in CRC (if not already regulated under the EU ETS or CCAs) and are dealt with in more detail in Section 4.8 below.

Participants will have the facility to exclude up to 10% of their 'footprint' that is not derived from Core sources, providing they ensure that a critical percentage of emission coverage is ensured. As stated in the Government response to the CRC policy design consultation, participants will be required to ensure that at least 90% of their total footprint emissions are regulated by CRC, EU ETS or CCAs. The 90% coverage is referred to as the 'applicable percentage'.

4.6.1 Calculation of the organisation 'footprint'

In preparation for each phase, organisations participating in CRC will need to identify their total energy use across the entire organisation and calculate the total carbon footprint of their organisation. Where an organisation has a group member that qualifies for a CCA exemption, then all the emissions from that group member (not just the CCA emissions) will be excluded from the participant's 'footprint'. Organisations that qualify for an exemption on CCA grounds will need to calculate the total footprint of the group member that qualifies for the exemption and record this data separately.

A participant's footprint will therefore comprise of:

Total energy use emissions

- ***Less***

Total energy use emissions from transport and onward transmission

- ***Less***

All emissions from CCA exempt group member (see section 5.2)

Table 4.1 below provides an example of the emissions that constitute an organisation's total footprint emissions. The definition of 'footprint' is outlined in Schedule 12 of the Draft Order.

	Emissions t/CO_2
Total organisation energy use emissions	**140**
Less transport and onward supply	20
Less total emissions from CCA exempt parts of org	20
Total Footprint emissions	**100**

Table 4.1: Total Footprint Emissions Breakdown

Question 18. **Does the wording in the Draft Order (Schedule 12, Paragraphs 1 and 2) around the calculation of a participant's footprint lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

4.6.2 Calculation of the Applicable Percentage – the '90% rule'

Once an organisation has established its footprint it will need to establish whether it has at least 90% - 'the Applicable Percentage' - of its emissions covered by CRC Core sources, EU ETS or Climate Change Agreements.

If, having included all the Core sources, a participant ascertains that the percentage of emissions coverage has not yet reached the critical point where 90% of total footprint emissions are regulated, then it must include some Residual sources until the organisation's combined EU ETS, CCAs and CRC coverage level is above the 90% threshold.

Participants that are required to include Residual sources in CRC in order to reach the applicable percentage, or that choose to do so voluntarily to achieve a level above 90%, will need to compile a list of residual energy sources to be included in CRC. The Order refers to this list as the '**residual measurement list**'. All the sources identified by the participant (both Core and Residual) should be included in CRC for the duration of a phase.

At the start of each phase the percentage of emissions a participant has covered by CRC in the new phase must remain at least the same as the percentage of the participant's total footprint emissions included CRC at end of the preceding phase and be at least 90%. For example, if a participant finished a phase with 92% of its emissions included in CRC, it must include at least 92% in the next phase.

The residual measurement list and the Core sources will itemise all the energy sources which are part of the organisation's CRC portfolio. To maintain the integrity of the scheme CRC participants will not be allowed to simply remove sources (whether Core or non-Core) from their CRC portfolio over the course of a phase (other than if that source is transferred to another organisation/another trading scheme - e.g. a particular building is sold, or a particular source enters the EU ETS).

The Draft Order deals with total footprint emissions and residual measurement list in Schedule 12.

Box 4.1: Complying with the 'applicable percentage'

Example 1:

Participant has 80% of their footprint emissions covered by Core CRC sources (70%), CCA (5%) and EU ETS (5%) and must therefore include emissions from at least half their 'Residual sources' (10%) to bring it up to the 'applicable percentage' of 90%.

	Emissions t/CO2	% of footprint
EU ETS Emissions	10	5%
CCA emissions (not covered by EU ETS)	10	5%
Core sources emissions	140	70%
Residual sources emissions	40	20%
Footprint emissions	**200**	**100%**

Example 2:

Participant has 90% of their footprint emissions covered by Core CRC sources (70%), CCA (10%) and EU ETS (10%) and has achieved the applicable percentage. It can therefore choose to include emissions from its Residual sources in CRC.

	Emissions t/CO2	% of footprint
EU ETS Emissions	20	10%
CCA emissions (not covered by EU ETS)	20	10%
Core sources emissions	140	70%
Residual sources emissions	20	10%
Footprint emissions	**200**	**100%**

Question 19. **Does the wording in the Draft Order (article 38 and Schedule 12) around the calculation of the 'Applicable percentage' and the compilation of a residual measurement list lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Figure 4.1 below summarises the steps a participant needs to undertake to calculate the footprint, establish the applicable percentage of emission coverage and identify CRC emissions.

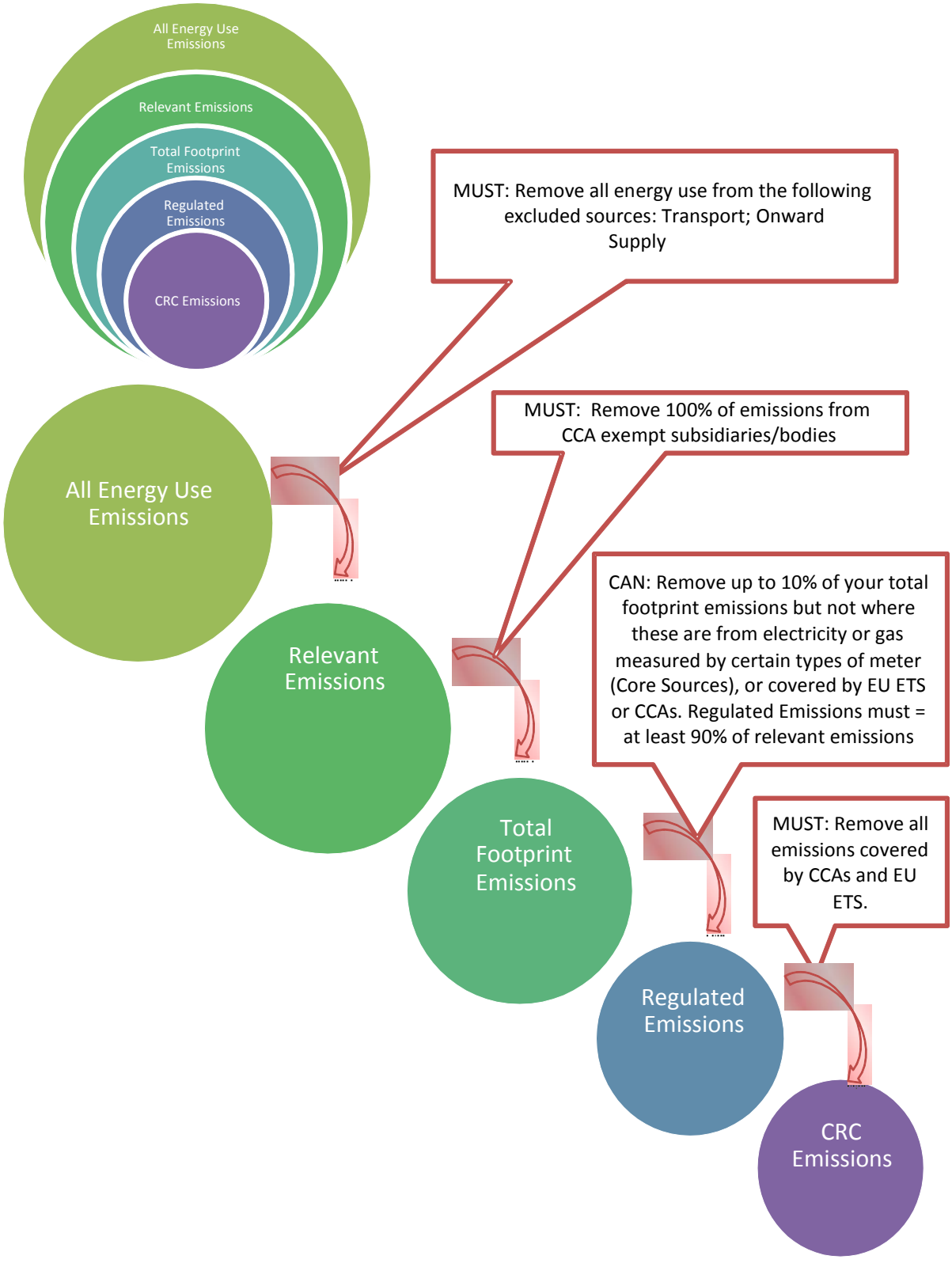

Figure 4.1: Emissions making up a participant's 'CRC emissions'

4.7 Legal definitions of core consumption

Core consumption is defined as the energy use measured by certain types of electricity and gas meters. The Government response to the CRC policy design consultation referred to 'Core sources'. For simplicity, Government will keep referring to 'Core sources' in the consultation document and for communication purposes.

Any electricity or gas consumption through these meters will need to be included in CRC on a mandatory basis provided these sources are not already included in CCAs or EU ETS (even if this means that the participant has more than 90% of its total footprint emissions regulated by the combination of EU ETS, CCAs and CRC). Article 31 and Schedule 8 of the Draft Order define core consumption and the types of meters that identify it. The sections below provide details of electricity and gas meters that are captured by the definitions in the Order.

4.7.1 Core electricity sources

Government proposes that the various types of half hourly metered electricity consumption as well as electricity consumed through meter profile classes 5-8 will all count as Core CRC electricity sources. The half hourly metered consumption is defined as the use of electricity through half hourly settled meters, remotely read half hourly AMR meters, and pseudo half hourly meters. Including these metering systems as CRC Core sources should ensure that the participant includes its larger electricity uses in the scheme, whilst permitting an exemption of the smaller sites. These meter profiles will also provide the most accurate and easily accessible data.

Government proposes definitions for each type of Core electricity source below, and invites views on these definitions. Note that in respect of the different types of half hourly electricity, these definitions will also be used for the purpose of scheme qualification (as set out in Section 3).

Box 4.2: Profile Classes

Electricity meters in Great Britain are classified by profile class. Half hourly settled meters are profile class 00; domestic customers (profile classes 1 and 2); non-domestic customers (profile classes 3 – 8). A Carbon Trust pilot[19] on the costs and benefits of advanced metering indicates that meters with profile classes 5 – 8 typically use between 80,000 kWh and 140,000 kWh of electricity annually.

4.7.1.1 Half-hourly settled meters

Government proposes to define as Core sources the electricity measured by half hourly settled meters, both those half hourly settled electricity meters which are

[19] For the full report, "Advanced metering for SMEs", see http://www.carbontrust.co.uk/technology/technologyaccelerator/advanced_metering.htm

required to be installed by electricity suppliers as set out in the Balancing and Settlement Code (BSC)[20], and also any half hourly settled electricity meters installed by the customer on a voluntary basis.

Paragraph 1, Schedule 8 the Draft Order defines half hourly settled meters as those meters that fulfil two purposes. The first purpose is to measure electricity supplied to a customer for billing purposes. The second purpose is for suppliers to comply with the Balancing and Settlement Code. More specifically, these 'half hourly settled' meters measure electricity transmitted to a supplier (and used as a result of its supply) for balancing and settlement purposes (i.e. to ensure that there is a balance between the amounts of wholesale electricity generated and consumed in a particular period, and the settlement of amounts due in respect of any imbalance).

4.7.1.2 Dynamic pseudo settled half hourly metering

Government proposes to define as Core sources the electricity measured *by reference t*o settled half hourly meters (Paragraph 5 , Schedule 8).

This definition covers electricity consumption where the amount of electricity supplied is not necessarily measured by a meter. In these instances, activity data and the related readings from an equivalent device are used to calculate the total amount of electricity consumed by applying a formula or multiple to the metered consumption. Electricity consumption is commonly measured in this way in the case of mobile phone masts or street furniture – e.g. street lights, traffic lights, etc.

The definition described above captures dynamic[21] pseudo half hourly measured supply but not consumption measured on a passive[22] basis. This is because the methodology used to calculate passive supplies is generally less accurate, because it does not account for the actual switching times (e.g. the times that street lights are switched on and off).

The CRC definition for pseudo half hourly measured supply captures dynamic measured supplies because these are understood to be by far the most common

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[20] A half hourly electricity meter must be installed by the electricity supplier where the average of the maximum monthly electrical demand in the three months of highest demand, either in a) the previous twelve months or, b) the period since the most recent Significant Change of Demand (whichever is the shorter) exceeds 100 kW. Additionally, for sites where maximum demand metering is not installed, the Supplier has an obligation to identify 100 kW premises where the Profile of a Customer's electrical demand implies that an average of the maximum monthly electrical demand exceeds 100 kW. Elexon August 2006 "Guidance note for change of measurement class and change of profile class - version 6.0" http://www.elexon.co.uk

[21] **Dynamic supply** – These allocate the un-metered consumption across the HH periods by reference to the operation of a number of representative Photo Electric Cell Units (PECU) in an 'array' or by making use of actual switching times reported by a Central Management System (CMS).

[22] **Passive supply** – These allocate the un-metered consumption across the HH periods by a mathematical relationship of annual burning hours to the daily time of sunrise and sunset, in the example of street lighting.

form of pseudo half hourly measured supply. Moreover, the fact that the consumption is calculated in relation to some actual switching times makes it a suitably robust source to count as a Core source.

4.7.1.3 Half hourly Automatic Meter Reading (AMR) meters

Government proposes to define "half hourly AMR meters" as those electricity meters which are capable of ascertaining the amount of electricity supplied on an half hourly (or more frequent) basis – and which are read remotely by the customer. CRC will only capture AMR meters which are the main meters measuring the quantity of electricity supplied to a premises, not sub-meters or clip-on devices. Paragraph 6 of Schedule 8 of the Draft Order defines half hourly AMR meters as 'remotely read supply'.

Importantly, if a half hourly AMR meter is read remotely by the customer during the qualification year, footprint year, or any other year during a phase, that meter will constitute Core energy use for the duration of that phase, irrespective of whether it continues to be read remotely by the customer.

Although it is expected that organisations who rolled out AMR metering would have done so at sites falling within profile classes 5-8, in some cases organisations may have gone further for energy management purposes and rolled out these meters at profile classes 3 and 4, for example. In these cases, the AMR meters at any profile class would also fall under the half hourly AMR meters core consumption definition.

4.7.1.4 Profile class 5 - 8 meters

Government proposes to include Profile class 5 - 8 metered supply as Core sources. The Draft Order defines these meters as 'other metered supply' (see Paragraph 7 of Schedule 8). An electricity meter falls under this definition if it is used for measuring 'non-domestic' supplies of electricity and, where the meter is capable of recording maximum electricity demand. The term 'maximum electricity demand' refers to customers whose metering system has a register that records the highest demand.

Question 20. **Taking each core CRC electricity source in turn, do the electricity metering definitions set out at Schedule 8 part 1 of the Draft Order correctly identify Core sources as described above?**

(i) electricity from half hourly meters settled on the half hourly market

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(ii) electricity from pseudo half hourly metering

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(iii) electricity from half hourly Automatic Meter Reading (AMR) meters

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(iv) electricity from profile class 5-8 meters

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

4.7.2 Core gas sources

In light of previous consultations and as set out in the subsequent Government response, Government proposes that gas measured through daily read gas meters; through remotely read gas AMR meters; and through all non-daily metered gas where consumption exceeds 73,200 kWh per year will all count as Core CRC gas sources. Government proposes definitions for each type of Core gas source below, and invites views on these definitions.

4.7.2.1 Daily read gas meters

Government proposes to define Core source 'daily read gas meters' as any gas meter capable of ascertaining the quantity of gas supplied on a daily basis and where the meter is read by the supplier, or an authorised transporter. Notably, high-volume users, with annual consumption levels of 58,600,000 kWh are required under

section A paragraph 4.5.2 of the Uniform Network Code[23] (UNC) to have their meter read daily by their supplier. Paragraph 8 of Schedule 8 of the Draft Order describes these meters as 'daily read metered supply'.

4.7.2.2 Gas Automatic Meter Reading (AMR) meters

Government proposes to define Core source 'gas AMR meters' as those meters capable of ascertaining the amount of gas supplied on an hourly basis (or on a more frequent basis) and where the meter is read remotely by the customer. CRC will only capture AMR meters which are the main meters measuring the quantity of gas supplied to a premise, not sub-meters or clip-on devices. Paragraph 9 of Schedule 8 defines gas AMR meters as 'remotely read metered supply'.

Importantly, if a gas AMR meter is read remotely by the customer during any footprint year, reporting year, or year during a phase, that meter will continue to constitute core energy use for the duration of that phase, irrespective of whether it continues to be read remotely by the customer.

4.7.2.3 Large gas supply points

Government proposes to define Core source 'large supply points' as any gas supply point consuming greater than 73,200 kWh during the footprint year. If a gas supply point hits this threshold during the footprint year then this supply point will continue to constitute core gas use for the remainder of that phase, irrespective of whether the amount supplied continues to exceed 73,200 kWh in subsequent years. Paragraph 10, Schedule 8 of the Draft Order defines Large gas supply points.

Question 21. **Taking each core CRC gas source in turn, do the gas metering definitions set out at Schedule 8 part 1 of the Draft Order correctly identify the stated sources?**

(i) gas from daily read gas meters

- **Does the definition in the Draft Order correctly identify these meters?**

  Yes / No

  If no, please explain reasoning

(ii) gas from Automatic Meter Reading (AMR) gas meters

[23] Uniform Network Code – Transportation principal document: Section A – System classification http://www.gasgovernance.com/Code/UniformNetworkCode/

- **Does the definition in the Draft Order correctly identify these meters?**

  Yes / No

  If no, please explain reasoning

(iii) gas from large gas supply points

- **Does the definition in the Draft Order correctly identify these meters?**

  Yes / No

  If no, please explain reasoning

4.8 Inclusion of school energy use

In July 2008 Government announced that state-funded schools in Great Britain would participate in CRC within the portfolio of their participating Local Authority (LA). Government also proposed to allow schools to apply an optional 90% de-minimis rule for reporting emissions to their Local Authority in order to minimise administrative burdens associated with minor sources of emissions.

Once a phase, during each footprint year, schools will be required to identify their 'Core' and 'Residual' sources. Any Core sources of electricity and gas in schools will be included in the scheme and will be part of the Local Authority's CRC emissions, which is in line with the approach taken for participants in other sectors.

However, due to the unique relationship between schools and Local Authorities Government is considering two options for how the de-minimis rule could be applied to schools' residual sources.

Option One - schools will be responsible for determining their Core and Residual source lists to ensure that 90% of their total energy use emissions are covered. This is set out in Schedule 12, Part 2 of the Draft Order.

This will require each school to identify which sources to include when determining its CRC source list, in line with the overall requirements on participants. Under this proposal schools would be required to:

1. identify and report to their Local Authority all their Core sources and the relevant Residual sources for the Footprint Report, which is required once per phase, ensuring that at least 90% of their total energy use emissions are included in their CRC source list reported to their LA.

2. report annually to the Local Authority on the emissions from all Core and the Residual sources identified by the school at the start of the phase.

Local Authorities would have to:

1. include the schools' Core and Residual source lists, and emissions from these in their annual CRC reporting and obligations; and

2. identify and report on their Core and Residual sources from the non-schools portion of the portfolio in line with the general scheme rules, namely that at least 90% of their non-school emissions are covered by CRC, EU ETS and CCAs.

Each school will use the emissions data gathered during the Footprint Year to determine which emissions should be included in their CRC source list. Schools will be required to submit a source list to their LA only once a phase. Each school may itself decide which minor sources to include in CRC and this will therefore minimise any administrative burden associated with measuring small sources, whilst ensuring that all schools are encouraged and facilitated to take an active approach to its energy management.

Option Two - Local Authorities determine the full source list of their portfolios in line with CRC participants from other sectors. Under this option the 90% threshold limit would be applied at the Local Authority level only and there would be no requirement for individual schools to meet this specific criterion. In line with other CRC participants Local Authorities would be required to:

1. include all emissions from Core sources in their CRC emissions if they are not covered by EU ETS or CCAs;

2. ensure that at least 90% of their total energy use emissions (including from schools) are included in their CRC source list; and

3. inform schools of which, if any, residual sources the school will need to report on annually.

Schools would be required to:

1. identify and report to their Local Authority all their Core sources and all Residual sources once per phase; and

2. report annually to the Local Authority on the emissions from all core and those residual sources, as determined by the Local Authority.

Under this proposal, Local Authorities would assess the energy sources of each school in their remit and decide which residual sources to include or exclude in their own portfolio. The Local Authority would inform each school of its decision, with the school having to report emissions from the selected residual sources as part of its annual report.

Under this option small schools without Core sources might not need to report annually, although this decision would rest with the Local Authority. In addition smaller Residual school sources may be excluded by a Local Authority in preference for larger, non-school residual sources with larger efficiency potential. However, the reporting burdens for these small sources and schools are in general expected to be minimal, and outweighed by the benefits of active energy management. Furthermore Government has committed that all state-funded schools will participate in CRC.

Schools in Northern Ireland will be included under the Education and Skills Authority. The approach to include school energy use will be determined during the consultation period.

Question 22. **Please indicate your preferred option to the treatment of school's energy use in CRC and justify your response.**

5 Participant Exemptions

Government has designed CRC to target large organisations, where the energy efficiency benefits should outweigh the administrative costs of participation. Accordingly, the scheme features a 6,000 MWh half hourly electricity qualification threshold, to focus the scheme on large organisations that have the capability to manage participation in a cap and trade scheme. This approach has been generally welcomed by stakeholders.

At the same time, Government is mindful that large organisations (meeting or exceeding the 6,000 MWh half hourly electricity qualification threshold) could participate in CRC only for a small number of emissions once they remove emissions from excluded activities. As the exclusions do not apply at the point of assessing qualification, but operate once an organisation is a participant, a participant's CRC eligible energy use could theoretically comprise of just a single office with a single meter using very little energy once the excluded sources have been removed.

In its response to the previous consultation, Government announced its decision to introduce an exemption for parts of organisations (or entire organisations in instances where there are no group members (subsidiaries)) that had more than 25% of their energy use emissions covered by a CCA to reduce overlap with that mechanism.

To further reduce the risk of organisations being included in CRC for relatively few emissions, Government now proposes to introduce two additional exemptions that exempt entire organisations based on the amount of half hourly electricity remaining in the scheme after (i) electricity used for transport purposes has been removed; and/or (ii) the parts of the group have been exempted due to the CCA '25% rule'.

These exemptions from CRC would apply for those organisations who would normally satisfy the following qualification criteria:

- A Transport exemption based on the amount of half hourly electricity an organisation has remaining in the scheme following the removal of electricity used for transport purposes

- Exemptions based on energy use covered by a CCA (CCA residual group exemption and '25% rule')

These are explained in more detail in the following sections.

5.1 Transport Exemption

Government proposes to introduce an exemption from CRC for entire organisations that have large parts of their energy used for transport (as defined in section 4.5.1). The Transport exemption will apply to the entire organisation, will last for the entire phase (subject to Designated Changes[24]), and will be based on half hourly electricity consumed over the course of the qualification year.).

The entire organisation would be exempted for the duration of the phase if its total half hourly electricity use over the course of the qualification year is less than 1,000 MWh, after it has excluded electricity consumed for transport (as defined in section 4.5.1). The organisation would have to reassess its participation or exemption at the start of each phase over the course of the qualification year.

An organisation that qualifies for an Organisation exemption will need to disclose this as part of its 'non-participant disclosure'.

Article 20 of the draft order provides for the Transport exemption.

Question 23. **Do you agree with the proposed Transport exemption for large qualifying organisations with very limited CRC energy use?**

Yes / No / Don't know

If no, please explain reasoning

Any comments welcome

Question 24. **Do you agree with the proposed Transport exemption based on an exemption threshold of 1,000 MWh total half hourly electricity use (over the qualification year/footprint year)?**

Yes / No / Don't know

If no, please explain reasoning

Question 25. **Do you agree that the Transport exemption should apply for the duration of a phase?**

Yes / No / Don't know

[24] If, during a phase, an organisation exempted under the 'Transport exemption' bought a Principal Subsidiary from a CRC participant (or indeed bought an entire CRC participant), then it would be treated no differently from another non-CRC participant that had made that purchase. In this scenario, the organisation would then participate in CRC – but only in respect of the energy use of the Principal Subsidiary or participant it had purchased.

If no, please explain reasoning

5.2 CCA Exemptions

Government announced in its response to the previous consultation that, to avoid double administrative burdens in respect of the same emissions, CRC would cover only energy use emissions outside CCAs (as outlined in section 4.5.3). In addition, Government announced that group members with more than 25% of their emissions covered by CCAs will be exempt from CRC. Government is now proposing that CRC includes an additional residual group exemption based on the quantity of half hourly electricity remaining in the scheme after parts of an organisation have been exempted under the CCA group member exemption.

5.2.1 Group member exemption – 'the 25% rule'

Government intends to exempt organisations or group members (subsidiaries) that have more than 25% of their total footprint emissions covered by the CCA. The exemption will be assessed over the footprint period and will be based on the group member's 'Footprint Emissions' as outlined in section 4.6. Where a group member is exempted from the scheme, all its emissions will be exempt from the scheme not just those subject to the CCA.

To avoid the situation where an entire large organisation is exempt simply because one of its subsidiaries has a CCA, only the specific subsidiary subject to the CCA target is exempt, not the group as a whole (if the participant is a single entity and does not have any subsidiaries or group members then the exemption will apply to the entire organisation). The remainder of the overall organisation remains in CRC (subject to the CCA residual group exemption outlined below). For example in the diagram below, the CRC participant would be 'Organisation A'. All the subsidiaries of the group participate in the scheme except for M and N, which have more than 25% of their emissions in CCAs.

Participants will be required to provide appropriate evidence to the Government to exempt any of their subsidiaries (or the entire CRC organisation, if appropriate) from CRC. Such evidence would include details of their CCA based on the CCA evidence pack. The onus would be on organisations to provide sufficient evidence for their exemption, which would be done as part of the organisation's footprint report.

Article 50 and Schedule 18 (1) provide for the CCA Group member exemption.

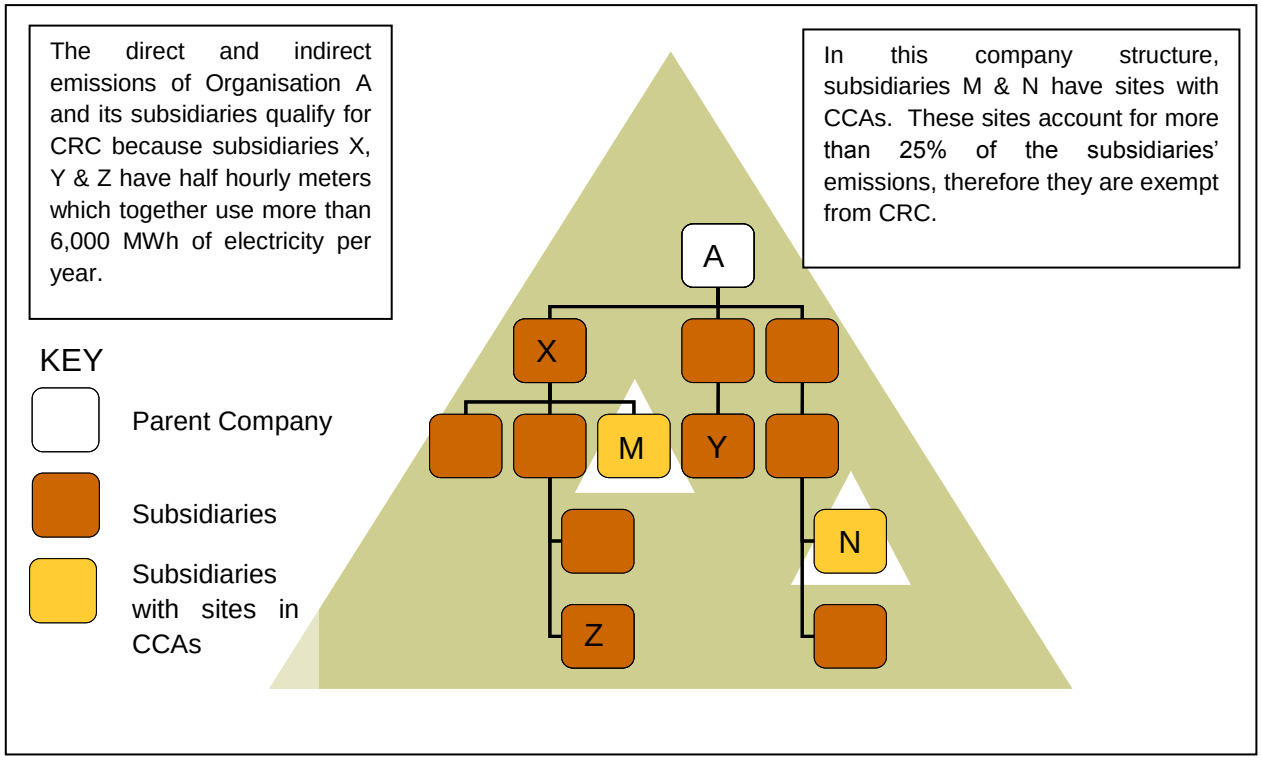


Figure 5.1: Illustration of a CRC Organisation with CCA sites

5.2.2 CCA Residual Group Exemption

In addition to the proposed Transport exemption based on excluded energy use, Government also proposes to exempt entire organisations based on the amount of residual half hourly electricity they have remaining in the scheme following the exemption of group members due to their CCA coverage. In line with the first residual group exemption, Government proposes that any organisation with less than 1,000 MWh of half hourly electricity covered by CRC after taking account of its CCA group member exemptions, would be entirely exempt from CRC.

However, Government proposes to use the footprint year rather than the qualification year for the assessment of the CCA residual group exemption. This is because exemptions of CCA subsidiary firms can only be confirmed once firms know that, over the course of the footprint year, they have at least 25% of their total energy use emissions covered by CCAs. CRC companies with CCA subsidiaries will have been monitoring their half hourly electricity (and indeed their total energy use emissions) over the footprint year – so those CRC companies would be able to calculate their "residual total half hourly electricity use" over the course of the footprint year.

For example, in Figure 5.1 above, if Organisation A were to have used less than 1,000 MWh of half hourly electricity during the footprint period after all the energy use from subsidiaries M and N has been excluded (not just their CCA energy use), then Organisation A will be exempt from the scheme.

Article 50 and Schedule 18 (2) provide for the CCA Residual exemption.

Question 26. **Do you agree that the CCA Group member exemption and Residual Group Exemption should be based on half hourly electricity usage over the 'footprint year'?**

Yes / No / Don't know

If no please suggest an alternative period

5.2.3 CCA exemptions - duration

Government proposes that, in relation to Climate Change Agreements (CCAs), if the organisation ceased to be covered by the CCA, then the associated exemption would cease to apply[25]. The parts of the organisation that were exempt would fall back into CRC from the start of the next CRC compliance year for the remainder of that CRC phase. This applies to both the CCA group member exemption and the CCA residual group exemption and differs from the Transport exemption which would apply for the duration of the phase. In addition, the CCA firm would lose its Climate Change Levy discount.

Climate Change Agreements (CCAs) are voluntary, although eligibility to join the agreements is determined by Government. Therefore, Government considers that there is an important distinction to be drawn between a participant that chose to leave a CCA, or lost it due to failing to meet their targets, and one that became ineligible due to Government changing the eligibility criteria.

Government is not considering any such changes to narrow the range of eligible processes, but in the unlikely event that such restriction became necessary, thereby forcing emissions to be transferred between CCAs and CRC, Government proposes that CRC historic baselines (used in the CRC league table and revenue recycling purposes) would be updated. This is described in section 8.5.2.

[25] If an organisation exempted under the CCA Residual Group exemption bought a principal subsidiary from a CRC participant (or indeed bought an entire CRC participant), then it would be treated no differently from another non-CRC participant that had made that purchase. In this scenario, the organisation would then participate in CRC – but only in respect of the energy use of the principal subsidiary or participant it had purchased.

Question 27. **In the case of Residual Group organisations covered by Climate Change Agreements (CCAs) where the Residual Group organisation subsequently ceases to be covered by any CCA, do you agree that the Residual Group organisation should fall back into CRC from the start of the next compliance year?**

Yes / No / Don't know

If no, please state alternative approach, giving reasoning

6 Obtaining Allowances

6.1 Overview

CRC will operate as a cap and trade scheme in which participants are required to purchase and surrender allowances corresponding with their annual carbon dioxide emissions with one allowance equivalent to one tonne of carbon dioxide emitted. During the three year Introductory Phase, an unlimited quantity of allowances will be sold at a fixed price of £12/tCO_2 during a month long sale window. Following the Introductory Phase, Government will limit the total emissions that can be made by the overall CRC sector by placing a 'cap' on the number of allowances released to the market. The market cap will be set in line with the UK's overall emissions reduction strategy. It will be based on emissions data obtained in the Introductory Phase and will draw on advice from the Committee on Climate Change. Importantly, Government will not limit emissions from individual participants, but the total emissions from the market as a whole will be limited by the capped number of allowances released to the market. Individual participants will be able to increase their emissions, but will have to pay for allowances to do so. The market as a whole will remain within the confines of the overall cap.

Effective forecasting of abatement opportunities and balancing the costs of those reductions against the cost of buying allowances will enable participants to better predict the number of allowances they require for each year and the price they are prepared to pay for them. From 2013, in addition to Government limiting the total number of allowances available to participants, allowances will be distributed via an online auction, rather than by fixed price sale. At this point the price of allowances sold by Government will be variable and therefore it will be in the interest of participants to draw up carbon management strategies and forecasts that can be adapted according to different allowance prices.

The market is designed to be as flexible and liquid as possible to allow maximum scope for participants to obtain the allowances they require, whilst maintaining the scheme's overriding environmental objectives. In all but the first year, in which no allowances are for sale, participants are expected to buy allowances in anticipation of their emissions, according to their carbon management strategy. It is not compulsory for participants to buy allowances through the Government sales, but by doing so they reduce the uncertainty of how much they will have to spend on allowances at a later stage[26]. Once allowances have been bought they are stored in the participant's registry account (discussed in section 9.9) until they are either sold or surrendered.

Participants will be able to purchase allowances from three sources:

[26] The price of allowances on the secondary market, or purchased through the Safety Valve mechanism will be subject to market variability.

- From Government in the fixed price sale (first phase) or auction (subsequent phases) in April of each scheme year;
- On the secondary market from other participants or traders; or,
- Through the safety valve mechanism.

The scheme will be broadly revenue neutral to the Exchequer with the revenue raised by the Government through the annual sale/auction of allowances recycled back to participants in an annual payment six months after the sale/auction. The payment to each participant will be proportional to their 2010/11 emissions, with a bonus or penalty based on their position within a Performance League Table. The revenue recycling process is described in detail in section 7.

6.2 The Introductory Phase

The Introductory Phase will give participants the opportunity to gain experience in forecasting their expected need for allowances; buying allowances using the online registry system; creating energy management strategies; trading on the secondary market; and monitoring and reporting their emissions. This is intended to be "learning by doing" for organisations that may be unfamiliar with many of these aspects of the scheme.

The Introductory Phase will start in April[27] 2010 and last for three years, during which an unlimited number of allowances will be sold to participants during two sales each lasting a month (held in April 2011 and 2012) at a fixed price of £12/tCO2. After April, the fixed price sale will end, and there will be a fixed quantity of allowances in the CRC market. As such, technically, there will be a cap in the Introductory Phase – albeit one set by the market rather than by Government. For all phases after the Introductory Phase, Government will set the cap. The first capped phase proper will start in the fourth year of the scheme during which a fixed quantity of allowances will be sold to participants by auction (as outlined below).

A £12 allowance price has been chosen to strike a balance between limiting the costs of the Introductory Phase, and incentivising early action within the target sector. A price of £12 is also intended to protect participants from too great a jump in price between the introductory and capped phases of the scheme.

[27] Government previously proposed that the scheme would run on a calendar year basis. The use of the financial year for the scheme is a new part of the policy since the last consultation. Government proposes this change as a number of local authority and other public sector stakeholders have highlighted that operating the scheme on a financial year basis – so that auction payments and revenue recycling occur within the same financial year – would be preferable, given public finance constraints.

Government previously proposed to hold the first sale of allowances during the first month of the Introductory Phase, then to hold a second sale six months later to reduce the cash flow implications on participants. However, in order to minimise the cash flow impact on scheme participants to six months Government now proposes that there will be no sale in April 2010. The first sale will take place in April 2011, when participants will be able to purchase allowances to cover:

- their actual emissions in the financial year 2010/11; and
- their projected emissions in financial year 2011/12.

To reinforce the scheme's objectives of encouraging organisations to forecast their energy usage and to plan emissions reductions strategies it is important that participants purchase allowances at the start of each year. Therefore, the first April 2011 sale will be the only time during the scheme that participants will be able to buy allowances to cover their previous year's emissions. It should be noted that Government intends that all the money that is raised in the April 2011 "double" sale of allowances will be recycled back to participants in the first recycling payment in October 2011 (refer to section 7). Consequently Government will only ever hold auction revenues for six months.

Participants will be able to obtain allowances from the Administrators in the fixed price sales via the on-line registry system. During this period participants will be able to make multiple requests for allowances, but will receive allowances only for those requests that have been paid for in full and on time, i.e.; if a participant makes a single request for 100 allowances but pays for only 50, it will receive no allowances and have its money returned. However, if it makes two requests for 50 allowances and pays for only one of them it will receive 50 allowances.

Allowances will be issued after payment has been received by Government and the Administrators have had sufficient time to carry out the payment reconciliation process. The payment deadline will be the end of the tenth working day of May. Any payments received after this date will be returned to participants and the participant will not receive allowances. Only CRC participants will be allowed to participate in the month-long sale of allowances. VAT will not be charged on allowances bought during the month long sale or auction, but VAT will be chargeable on all subsequent trading.

The Allocation Regulations made under section 21 of the Finance Act 2008 provide for the sale of allowances in the Introductory Phase.

6.3 The Capped Phases

In the Introductory Phase there will be no limit to the number of allowances available to purchase during the month long sale periods. In subsequent phases Government

will place a cap on the number of allowances available to CRC participants as a whole. The level of the cap will be set taking into account the views of the Committee on Climate Change, information collected during the Introductory Phase, the UK's overall emissions reductions targets and the wider policy landscape.

Drawing on experience gained from both the EU ETS and the voluntary UK ETS, allowances will be distributed to participants by auction. Auctioning allowances in CRC is the most transparent and fair approach to the allocation of allowances. This approach has the additional benefit of raising carbon emissions up the corporate agenda by attaching an avoidable financial cost. It will also provide participants with the flexibility to define their own emissions reduction targets, balancing their allowance needs against the cost of emissions abatement for their organisation, within the context of the overall scheme wide cap. Other methods of distributing allowances, such as free allocations based on negotiations, encourage participants to overestimate their emissions, whereas the upfront cost of auctioning focuses attention and drives accuracy of reporting.

Government proposes to use a sealed bid uniform price (SBUP) auction to distribute allowances in the capped phase. In a SBUP auction, each participant submits a simple bid schedule specifying the amount of allowances they want at a range of different prices according to the organisation's predicted energy use and carbon abatement strategy. At higher allowance prices more emissions abatement opportunities are likely to become cost effective, so an organisation is likely to bid for fewer allowances. These bids are aggregated by Government to form a scheme-wide demand curve, which can then be used to establish a market clearing price. The total number of allowances bid for by all participants at each price is compared against the quantity of allowances as determined by the scheme cap The price at which total demand equals supply is the market clearing price. Once the market clearing price is found, each participant is awarded the number of allowances they bid for at this price.

Government has decided to use a SBUP auction because of its relative simplicity, participants would have time to prepare and submit a single bid schedule rather than taking part in a live auction. Consequently, once abatement opportunities have been identified, participation costs for the auction itself would be low. Such auctions can also be highly efficient, have been widely used, and are easily scalable to a large number of participants.

6.3.1 Sale and Auction Restrictions

In its response to the previous consultation Government announced its intention to place two restrictions on the CRC sales and auctions:

- limiting participation in the sales and auctions to scheme participants or their agents; and

- placing a maximum limit on the percentage of allowances that can be bought in the auction by any one party.

Limiting the sales and auctions to only CRC participants holding a CRC registry account will ensure that organisations with a mandatory obligation to comply with the scheme are given the first opportunity to secure allowances for their compliance needs.

The maximum limit on the percentage of allowances available to any one bidder (for example 10% of all allowances issued to the market) will be introduced in the auction in order to prevent abuse of market power by some organisations. Government will set the limit once it has a more detailed understanding of the number and size of the participants to be covered by the scheme. Government does not propose to introduce absolute limits on the number of allowances that any one organisation can hold.

These limits will only apply to the sale and auction. Any organisation will be able to open a registry account and hold and trade allowances on the secondary market.

6.4 Banking Allowances

After reports have been submitted and allowances for the previous year surrendered, organisations holding more allowances than they need for compliance may wish to bank them for use or sale in future years and phases of the scheme. Government has decided that from the beginning of the second phase the allowances can be held indefinitely, and allowances bought in one phase will still be valid in subsequent years and phases. However, all allowances bought before April 2013 will be cancelled after the final Introductory Phase report has been submitted on July 31st 2013. This is to ensure the integrity of the caps applied in the second phase is maintained.

Please refer to Article 73 of the Draft Order and the Allocation Regulations outline the validity of allowances.

6.5 Obtaining Additional Allowances

The CRC market is designed to be as flexible and liquid as possible to allow maximum scope for participants to obtain the allowances they require, whilst maintaining the scheme's overriding environmental objectives. Participants will be able to purchase allowances from two sources in addition to the official sales/auctions in April:

- On the secondary market from other participants or traders; or,

- Through the safety valve mechanism.

6.5.1 Secondary Market

If a participant believes that they are holding more allowances than they require, they can choose to sell them in the secondary market. In cap and trade schemes, active use of the secondary market helps to ensure that abatement is achieved cost effectively. If an organisation can reduce its emissions by a tonne of carbon dioxide at a lower cost than the market price of an allowance, then it is likely that it will sell its surplus allowance(s) to organisations facing a higher cost of abatement. Consequently emissions reductions will tend to take place cost-effectively across the scheme participants as a whole.

Any organisation, not just CRC participants, will be able to open an online account with the Administrators in order to hold and trade allowances on the secondary market, at any time during the scheme. This will improve the liquidity of the secondary market as specialist brokers and traders are able to facilitate trading between participants. Government does not propose to introduce absolute limits on the number of allowances that any one organisation can hold. As part of the registry system Government will implement a notice board facility to help participants find buyers or sellers of allowances. However, organisations will not be restricted to using this system to find buyers and sellers of allowances and Government expects that third parties may implement external trading platforms for CRC allowances.

6.5.2 Safety Valve

CRC will feature a mechanism that allows participants to purchase additional CRC allowances during the course of the emissions year from the scheme Administrators. This 'safety valve' mechanism has been designed to prevent the cost of allowances in the secondary market reaching levels that place an unreasonable economic burden on participants. This should be treated as an option of last resort, as it will be both more expensive to buy allowances through the safety valve than from the Government sale, and the money spent on these allowances will not be recycled back to participants. In the previous consultation there was strong support for this aspect of the scheme, with 74% of respondents agreeing with Government's proposed mechanism.

In order to maintain the environmental integrity of the scheme Government[28] will buy and cancel an EU Emissions Allowance (EUA) for every safety valve allowance created. Participants will be expected to bear the burden of the full cost of creating a safety valve allowance. This process is explained in greater detail in the box below.

[28] In order to control the use of the safety valve mechanism and to underscore that the Safety Valve is there essentially as an option of last resort, participants will not be able to retire their own EU ETS allowance and request a Safety Valve allowance from the Administrators. They will have to make a purchase through the Administrators.

The price of a CRC allowance in the Introductory Phase fixed price sales from Government will be £12/tCO_2. In line with this standard Government sale price, the *minimum price* of a safety valve CRC allowance during the Introductory Phase will also be £12/tCO_2, although it could be significantly higher than this. Participants will not be able to obtain allowances from the Administrator through the safety valve for less than the cost of an allowance in the fixed price sale.

In practice, although the price of a safety valve allowance will be at least £12/tCO_2, the actual cost to participants will always be higher. This is because the fee paid by participants for a safety valve allowance is comprised of the cost of purchasing the EUA, the broker's fee, administrative fees and VAT. Also, there will be an administrative burden for a participant with each occasion they interact with the Administrators to buy allowances. This means that participants in CRC will have to consider the risk of paying (possibly substantially) more for a CRC allowance through the safety valve mechanism compared to buying allowances through the Government sale. These additional costs are expected to outweigh the cash flow benefits of buying allowances at the last possible moment. As a result, the safety valve is expected to be treated as an option of last resort.

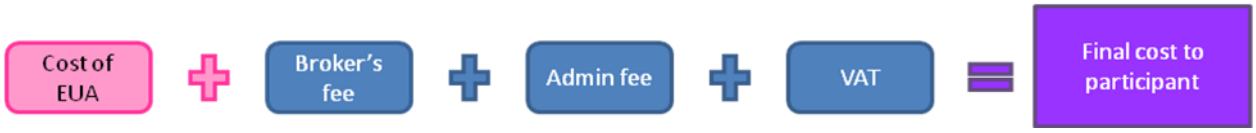


Figure 6.1: Final Cost of Safety Valve Allowances

The benefits from participation in CRC lie primarily in reduced energy costs due to energy efficiency improvements incentivised by the scheme. In order to secure these, organisations will need to plan and take action accordingly. The purchase of safety valve allowances is likely to indicate that this has not happened. Furthermore, if a significant number of organisations choose to purchase allowances from the safety valve system rather than the fixed price sale, there will be less money available to recycle to participants (as money spent on safety valve allowances will have been used to cover costs). It is therefore important that participants treat the safety valve as an option of last resort, as the purchase of a safety valve allowance represents both a lost opportunity to make efficiency savings within the organisation, and a payment for emissions reductions outside the target sector.

The proposed £12/tCO2 minimum price for the safety valve allowance is a result of further consideration, as committed to in the Government's response to the last consultation. Government believes that the proposed minimum price in the first phase of the scheme is a sensible precaution to safeguard the scheme's positive financial benefits to participants.

Please refer to Article 91 in the draft order, which gives the Environment Agency powers to buy EUAs. The allocation of CRC allowances is provided for in the Allocation Regulations.

Question 28. **Do you agree that proposed minimum Safety Valve price of £12/tCO2 is appropriate?**

Yes / No / Don't know

If no, please state reasoning and indicate an alternative price

6.5.2.1 Safety Valve Process

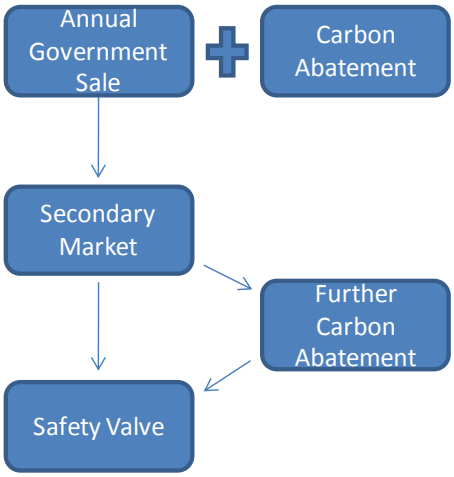
From August to March each year Government proposes that the safety valve allowances will be created only once a month, to reduce the administrative costs to participants. However, Government proposes to hold a greater frequency of safety valve sales towards the end of the reporting year in order to best support those participants who have failed to accurately predict their emissions, and therefore find themselves in need of more allowances. There will be additional sales at the start of May and June with a final safety valve sale held before the reporting and surrendering deadline at the start of July each year (or nearest working day thereafter). Participants would be able to request allowances during the ten working days from the fifth working day of each month (the additional sale windows will start on the 15th working day of April, May and June), but the price would be determined on the day the EUA was purchased and would be largely affected by the price of an EUA on that day. The Administrators would aggregate requests during the 10 day period and make a single purchase of EUAs from the EU ETS. This approach will minimise the transaction costs to participants – which could otherwise be relatively high if frequent requests for small numbers of allowances were common.

The Allocation Regulations provide for the sale of CRC allowances through the safety valve process. The purchase of EUAs is provided for by Article 91 of the Draft Order.

Box 6.1: The Safety Valve Process

Any organisation with a CRC registry account (both participants and non-participants) will be able to request additional CRC allowances from the Administrators during a ten day period starting on the fifth working day of each month.

As the safety valve is an option of last resort, it will be in the interest of participants to prioritise other routes for purchasing allowances, as follows:



The Administrators will collate the requests for allowances made by organisations during the ten day period and purchase a corresponding number of allowances from the EU ETS (EUAs) once a month from August to June. During the two month period of May and June the Administrators will increase the frequency of EUA purchases to a fortnightly basis. The final purchase of EUAs and issue of safety valve allowances will be made at the start of July.

When an organisation requests a safety valve allowance from the Administrators, it will be required to make a collateral payment.

The **collateral payment** will be calculated as:

Previous safety valve allowance cost + broker's fee + Administrators admin cost + VAT

The Administrators will purchase allowances only for those organisations whose collateral payments have cleared in the Administrators' accounts within three days of the request being made.

The Administrators will obtain quotes for EUAs from three brokers to obtain best price.

Once the Administrators have completed the purchase of the EUAs the organisation will be charged or credited the difference between the collateral payment and the final cost of the purchase of the safety valve allowances.

The **final cost** to participants will be calculated as:

Price of safety valve allowance + Administrators admin cost + VAT

Price of safety valve allowance = Actual EUA purchase price[29] + broker's fee (subject to the minimum price conditions outlined above)

The participant will be required to pay (or be refunded) the difference between the collateral payment and the final actual cost of the allowance. Once these funds have cleared in the Administrators' account, the Administrators will credit the corresponding number of allowances to the organisation's registry account. If a participant chooses to default on this final reconciliation payment they will forfeit the collateral payment, which will be retained by the EA to cover their costs of purchasing the EUAs. These unused EUAs will be used in the following safety valve sale.

The purchased EUAs will then be cancelled by the Administrators. The Administrators will cancel EUAs for which they have received and cleared reconciliation payment.

Safety valve allowances will not have their use restricted to certain times or phases of the scheme, they can be used immediately or held indefinitely. The exception will be between the Introductory Phase and the first capped phase. All allowances purchased from the safety valve up to and including the sale at the beginning of July 2013 will be cancelled at the end of the Introductory Phase after the 31 July 2013 reporting deadline.

Question 29. **Do you agree with Government's proposal to issue safety valve allowances once a month to reduce administrative costs?**

Yes / No / Don't know

If no, please explain reasoning and your preferred alternative approach

[29] In the event that the Administrator is holding unused EUAs from the previous sale, the EUA purchase price will be the average of the cost of the unused EUAs and the new EUAs.

7 Revenue Recycling

7.1 Overview

Government has committed that CRC will be broadly revenue neutral to the Exchequer – CRC is not designed to be a revenue raising instrument. Subject to EU state aid clearance, Government will recycle revenue raised by the sale or auction of CRC allowances back to participants in October, six months after the end of the sale or auction. This recycling of revenue will be done as a performance based grant, linked to the league table (see next section for further explanation). Independent analysis[30] has indicated the need to retain at least a six month gap between the sale of allowances and the revenue recycling payment to maintain the signalling effect of the sale.

Recycling revenue to participants means that the total costs averaged over all CRC participants will be just the administrative costs of compliance and the costs of implementing emissions abatement measures. The costs of implementing abatement measures are expected to be smaller than the savings arising from increased energy efficiency. Analysis has shown that, by designing the scheme to limit the administrative costs, the scheme will have an estimated positive net present value, at late 2008energy prices, of £1034m to participants using a commercial discount rate of 10%[31].

As stated in the Government Response to the CRC policy design consultation, the recycling performance payment to a CRC organisation X will be proportional to its 2010/11 emissions ("the base recycling year") – multiplied by a percentage bonus or percentage penalty (e.g. multiplied by 0.9 or 1.1), depending on its position within the Performance League Table (see next section). Payments will be made annually via a simple BACS transfer. The "base recycling year" will be fixed as the first year of the scheme (2010/11) to reinforce the financial benefits for those organisations that are reducing their emissions[32].

It should be noted that a participant's revenue recycling payment will not be based on the amount that the participant has spent on allowances that year. Such an approach would create perverse incentives by encouraging participants to increase their emissions – i.e. participants would receive a higher proportion of the recycling

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[30] "Design of Auction, 'Safety-valve' and Revenue Recycling within the Energy Performance Commitment (EPC)" Defra, May 2007 - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm and Energy efficiency and trading part II: options for the implementation of a new mandatory UK emissions trading scheme NERA/Enviros, April 2006 - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

[31] Link to IA http://www.decc.gov.uk/en/content/cms/consultations/crc/crc.aspx

[32] In the event that a participant fails to submit an annual return in 2010/11 the Administrators will have the power determine an emissions figure for use in its revenue recycling payment.

pot if they increased their emissions. It will therefore be based on 2010/11 emissions.

The final amount paid to participants will be adjusted by a 'proportionality constant'. This is required to ensure that total revenue recycling payments are equal to the recycling 'pot' available. The proportionality constant will depend on how the large and small organisations are distributed across the league table. Government does not consider that there is any reason to suggest that the larger organisations will generally outperform the smaller organisations, or vice-versa. In addition, all CRC organisations will be fairly large (to pass the qualification threshold).

Box 7.1: Revenue recycling base payment calculation (ignoring bonus/penalty from the Performance League Table)

Organisation X has annual emissions over the first three years of CRC of 1,000 tCO_2 in 2010/2011, 900 tCO_2 in 2011/2012 and 800 tCO_2 in 2012/2013.

Regardless of Organisation X's emissions in the following years the share of the total revenue raised over the course of emissions year 3 (before the bonus or penalty based on its position in the Performance League Table) would be proportional to 1,000 tCO_2.

If the total annual emissions in financial year 2010/2011 from all participants since the start of the scheme equalled 10,000 tCO2, Organisation X would, in each year, receive 10% of the money recycled:

(1,000/10,000)x100= 10%

In year 3, if 10,000 allowances are sold at the sale, organisation X contributes 8% to the total recycling pot (by buying 800 allowances at the sale). In this particular case, organisation X will receive more money than it paid in the auction – i.e. it will receive 10% of the total pot. Thus it can be seen that under this recycling formula those organisations that reduce their emissions most quickly will benefit relative to those that reduce their emissions more slowly (or increase their emissions).

This base recycling amount would then be adjusted by the bonus or penalty factor depending on the organisation's position within the Performance League Table.

See Annex 3 for a fully worked example of the revenue recycling process.

7.1.1 Minimising cash flow implications for participants

Since the previous consultation, Government has again reviewed the process of recycling revenue to ensure that the period between payment and recycling is the

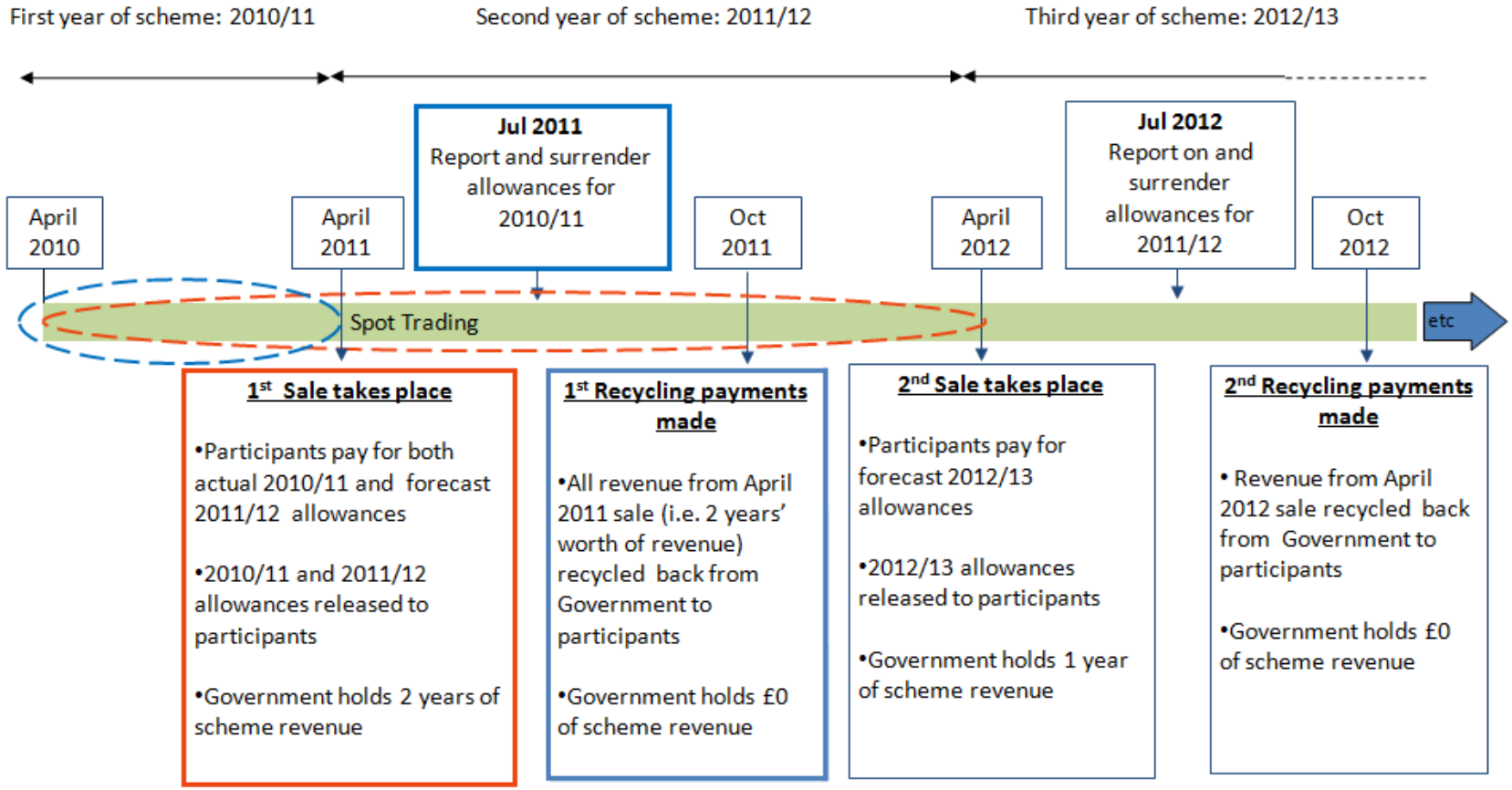
minimum necessary. As a result, Government now proposes that there will be no sale of allowances in the first year of the scheme. The first sale of allowances will now be held in April 2011 – where participants will need to buy allowances to cover their energy use emissions in respect of both 2010/11 and 2011/12. All of the revenue raised in this sale will then be recycled back to participants in October 2011, six months later. This means that the gap between the sale/auction and the revenue recycling performance payments will always be six months, with the first year being no exception.

Reducing the cash flow implications of the scheme to six months in this way means that the emissions used to calculate the recycling payment and the money available for recycling back to participants will relate to different periods: That is, the money recycled in October 2012 would have been raised in the auction in April 2012. The auction in April 2012 relates to the sale of allowances to cover emissions in 2012/2013 (the 'auction year'), whereas the recycling payments and bonus/penalty relate to organisations' performance in 2011/2012 (the 'emissions year'). Government does not consider this to be a significant issue, compared with the value of reducing the cash flow implications of the scheme to six months.

Government proposes that organisations which leave the scheme at the end of a phase (having dropped below the 6,000MWh threshold) would still receive a payment, made from the auction revenue raised in the year immediately after they leave. As both the number and size of organisations effected in this way will be small, such payments would represent a very small proportion of overall revenues.

Box 7.2: Revenue recycling in the first two years of the scheme

No sale of allowances will take place in April 2010. The first Government sale of allowances takes place in April 2011. Participants will be need to purchase allowances to cover their 2010 and 2011 emissions in this first sale. Six months later in October 2011 all the money from the sale is recycled to participants based on their 2010 emissions and their league table performance based on the Early Action Metric.



8 The Performance League Table

8.1 Overview

Government will publish a Performance League Table that ranks participants based on their respective 'performance' within the scheme. As set out in the 2007 consultation, this will happen at the end of the annual reconciliation and reporting period following the end of each emissions year.

The Performance League Table is an important element of CRC and is designed to leverage organisations' reputational drivers, as well as providing an additional financial incentive in the revenue recycling process (see below). The league table will not distinguish between sectors by using sector-level benchmarks. Rather, it is designed to provide an easy to understand guide to the performance of CRC participants. Articles 65 and 66 and Schedule 20 of the Draft Order provides the powers for the publication of information and the calculation of the league table.

8.2 Objectives for the design of the Performance League Table

Government recognises the need to ensure the calculation of the Performance League Table remains simple to administer for both participants and the scheme Administrators and that it supports the underlying environmental objectives of the scheme. Accordingly, as set out in the previous consultation any measure of performance (metric) that could contribute to a participant's performance and position in the league table must allow the overall Performance League Table to meet five design principles:

• **Reinforce the scheme objective** – the overall league table must be in line with the scheme's overriding absolute carbon abatement objective.

• **Scheme wide** – CRC will cover a wide range of different activity sectors from retailing to local authorities. As such the metrics must be applicable to all participants.

• **Administrative simplicity** – the information needed by the metrics must be simple for participants to collect and calculate.

• **Auditable** – the metrics must be easy to audit by the scheme Administrators to ensure the scheme remains fair to all participants.

• **Transparency** – the metrics must be clear and understandable to both participants and those interested in the published results.

It is clear, for example, that sector specific energy efficiency benchmarks would not satisfy these principles. Independent analysis[33] indicates that sector specific metrics would neither be scheme wide, nor administratively simple to construct, given the diversity of organisations and sectors within the scope of CRC. Furthermore, a number of sectors have indicated that the variation in activities both across their sector and within their own organisations make it almost impossible to construct a meaningful sector specific benchmark for use in the Performance League Table.

8.3 The league table metrics

As set out in the Government's response to the CRC policy design consultation, Government has decided to rank participants using three metrics:

- The absolute carbon reduction metric
- The early action metric
- The relative carbon efficiency metric ('Growth Metric')

All three metrics are described in detail below. While using just one absolute measure of emissions reductions would be the simplest way of assessing performance in the scheme, the additional metrics are included in order to provide context to the absolute metric. The inclusion of the growth and early action metrics address stakeholder concerns regarding factors such as organisation growth and the desire to ensure some form of recognition for organisations taking action before the start of the scheme.

Note that, due to the way the overall league table is calculated, it will always be in the interest of a participant to disclose information in respect of the 'early action' and 'growth' metrics – for more detail, see the section 8.4 on formulating the overall CRC Performance League Table below.

8.3.1 Absolute metric

As proposed in the first consultation, the absolute emissions reductions metric reinforces the message that absolute emissions reductions are the primary focus of the scheme. Organisations with reducing emissions will score more highly against this metric, whilst those with increasing emissions will score poorly. A participant's score in this metric will be based on the percentage of

[33] "Design of Auction, 'Safety-valve' and Revenue Recycling within the Energy Performance Commitment (EPC)" Defra, May 2007 - http://www.defra.gov.uk/environment/climatechange/uk/business/crc/policy.htm

absolute emissions reductions relative to the organisation's average annual emissions over the preceding five years. (or those available until a five-year history is established) It will rank participants on the percentage change in their emissions, not according to their total emissions. A participant's score in this metric will be based on the emissions that it discloses as part of its annual report. A participant that fails to submit an annual report will finish bottom of the league table as part of the penalty for failing to report (see penalties section 11 for more details).

Part 1 of Schedule 20 of the draft order deals with the different aspects of the early action metric.

Box 8.1: Calculation of the Absolute metric

The absolute metric is the annual emissions relative to the average annual emissions in the preceding five years of the scheme. In the example, Organisation Z has preceding average annual emissions of 975 tCO_2 in year 3 of the scheme. Its annual emissions in year 3 are 900 tCO_2.

Organisation Z	Yr1	Yr2	Yr3	Yr4	Yr5	Yr6
Annual emissions (tCO2)	1000	950	900	850	800	650
Up to 5 years preceding average annual emissions (tCO2)	N/A	1000	975	950	925	900
%age reduction in annual emissions relative to average	N/A	5%	8%	11%	14%	28%

Therefore its score for the Performance League Table in this metric would be:((975 – 900) ÷ 975) x 100 = 8%

Organisations with reducing emissions will score more highly against this metric, whilst those with increasing emissions will score poorly.

8.3.2 Early action metric

As proposed in the first consultation and developed in the second, the early action metric has been included for the first phase of the scheme only, to give credit to those more pro-active organisations, who have been undertaking good energy management practices for some time. The criteria are:

- The extent that an organisation has installed automatic metering above and beyond the legal minimum at the end of the first year, including any automatic metering installed before the start of the scheme; and

- The percentage of an organisation's emissions certified under the Energy Efficiency Accreditation Scheme (EEAS) or its successor, the Carbon Trust Standard.

These two percentages will be combined with equal weighting (i.e. averaged) to give a total early action score, and organisations will then be ranked on the basis of this score.

A. Automatic metering element

As proposed in 2006 consultation, the automatic metering metric will measure the proportion of an organisation's emissions from its supplies of electricity and gas[34] that have been measured through voluntarily (not mandatory) installed automatic metering (AMR) (see box below for calculation). This includes all half hourly meters that would not have been legally required to be installed over the 12 months to 31 March 2011. In the unlikely scenario that an organisation has all its electricity and gas supplied through automatic meters installed on a mandatory basis it will score 50% in the metric.

Meters that qualify as 'Automatic meters' for use in the AMR metric are those defined as half hourly settled meters (section 4.8.1.1 and 4.8.1.2), half hourly automatic meters (section 4.8.1.3), daily read gas (section 4.8.2.1) and gas AMR (section 4.8.2.2), that have been installed on a voluntary basis.

To ensure that the metric is truly measuring early action, Government decided in its response to the last consultation that the AMR metric will be 'frozen' at the end of year one of the scheme (participants would receive the same score for the AMR component in years 2010, 2011 and 2012). This should reduce the administrative burden on participants as organisations will be required to report this number only once. More importantly, however, it should also help to minimise any unintended unfair consequences arising from Government's intention to mandate the rollout automatic metering to smaller sites.

Organisations that have chosen voluntarily to roll out advanced metering are generally the more pro-active organisations seeking to improve their energy management. There is evidence from both stakeholder feedback and Carbon Trust analysis into the roll out of advanced metering, indicating that

[34] Government has amended this from the previous consultation which proposed to measure the AMR coverage across all a participant's CRC emissions rather than just its electricity and gas emissions. This amendment has been made to reduce the administrative burdens on participants.

organisations have seen significant energy efficiency benefits from such roll out[35].

Box 8.2: Proposed early action league table Metric: Extent of voluntary installation of automatic metering (AMR)

The AMR metric would be calculated on the basis of the extent that an organisation had installed non-mandatory automatic metering by the end of March 2011.

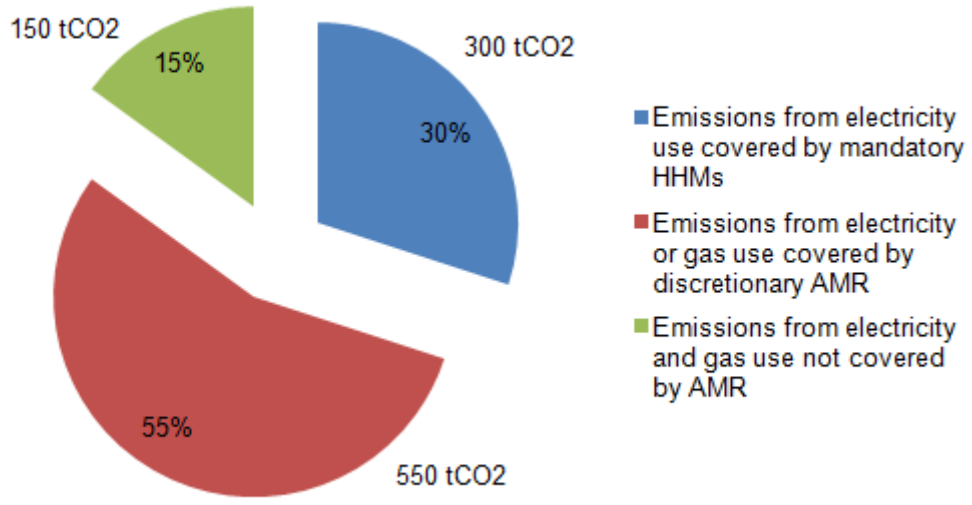
Step 1: Calculating total emissions from electricity and gas use

Organisation X emits 1000 tCO_2 per year from electricity and gas use.

This is from electricity and gas measured by a combination of mandatory half hourly meters, automatic meters that the organisation has chosen to install and standard meters read by eye (including unmetered supply). This does not include emissions from other fuel usage.

The pie chart shows the proportion of emissions covered by each type of meter.

Total electricity and gas emissions by meter type



[35] For the full report, "Advanced metering for SMEs", see http://www.carbontrust.co.uk/technology/technologyaccelerator/advanced_metering.htm

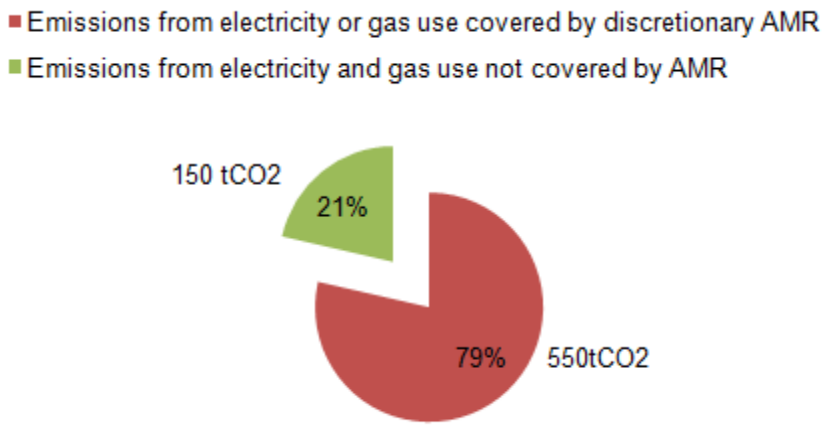
Step 2: Deduct emissions covered by mandatory automatic meters

After deducting the emissions covered by mandatory automatic meters, there are 700 tCO_2 emissions remaining.

Step 3: Calculate percentage of emissions covered by voluntary automatic meters

Of the remaining 700 tCO_2 emissions, discretionary AMR covers 79%

Organisation X's score:



Organisation X scores 79% in the AMR metric, which is half of the organisation's 's score under the early action metric.

B. Carbon Trust Standard element

Government proposed to expand the early action metric to include recognition of the Energy Efficiency Accreditation Scheme (EEAS) and Carbon Trust Standard (CTS) in response to stakeholder concerns that the AMR metric would be only a proxy for overall action taken before the start of the scheme. At the same time, Government is also keen to honour the stakeholder emphasis on simplicity – and hence (as highlighted during the last consultation) will not be undertaking historical baselining, not least given the overall poor quality of data across the target sector.

There are several reasons why we have chosen the EEAS/CTS as the only scheme that is recognised as early action in CRC:

- The inclusion of the CTS is a direct response to the last consultation. Stakeholders requested that the AMR element of the early action metric be complemented by an additional measure, with a notable number of stakeholders specifically recommending the use of the EEAS as a robust assessment of good energy management practice.

- The EEAS was the only UK wide energy efficiency certification for both public and private organisations and therefore represented an administratively straightforward way of recognising good energy management practice using something other than just AMR. The EEAS has been phased out and replaced by the similar, but more comprehensive, CTS. It would be unfair and inconsistent to allow schemes that were not available to all participants.

- The CTS is flexible as to how participants reduce their carbon footprint, but is also only focused on carbon emissions, which means that it does not favour or discriminate against any particular sector.

- Those wishing to become certified under the scheme are required to demonstrate emissions reductions over the previous three years, alongside meeting various other energy management criteria. Importantly, the former requirement ensures that those that have achieved certification in the early years of the scheme genuinely are those that have taken action prior to the start of the scheme.

- Reporting certification is simple, easily auditable and with low administrative burden for the participants.

Unlike the AMR proportion of the early action metric, a participant's coverage of emissions by the Carbon Trust Standard will be assessed at the end of every year of the Introductory Phase. This means that if an organisation obtains the CTS during 2011/12 or 2012/13 it will still score points in this aspect of the metric. The CTS award is based on an organisation's performance over the preceding three years. Consequently, even in the last year of the Introductory Phase, the award would still be based in part on actions taken before CRC started.

Furthermore, unlike the AMR proportion of the metric, performance in the CTS element of the early action metric will be assessed against all CRC emissions, not just emissions from electricity and gas. Part 1 Schedule 20 of the draft order deals with the different aspects of the early action metric.

Box 8.3: Calculation combined early action metric score

Organisation X has achieved accreditation under the Carbon Trust Standard for its three largest sites, which represent 60% of their total emissions. This percentage makes up the other half of the organisation's score under the early action metric.

The total early action metric score for Organisation X is, therefore:

(0.5x79) + (0.5x60)=69.5

Question 30. **Does the wording in the Draft Order (Paragraphs 1 to 5 of Schedule 20) around the calculation of the early action metric lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

8.3.3 Growth metric

Government announced in its response to its previous consultation its decision to include a third metric in the league table to account for organisational growth or decline. The rationale for the Growth Metric is that it gives some credit to those organisations that can grow efficiently within an absolute capped scheme. For example, an organisation's emissions may have gone up by 5% over five years but its turnover may have increased by 50% over the same five years, and the Growth Metric would reward this efficient growth.

Analysis and stakeholder engagement has suggested turnover as the most appropriate measure of growth, with revenue expenditure to be used as its equivalent for public sector CRC organisations. The league table will therefore include a metric that measures the **change** in emissions per unit turnover (or revenue expenditure for organisations that do not have a turnover figure) relative to the annual average emissions per unit turnover over the preceding five years. Formulated in this way, the metric will not disadvantage relatively energy intensive organisations within CRC, as it will not be

measuring absolute levels of energy intensity, but would, instead give credit for improvement in energy efficiency.

Government considered alternatives of tracking improvement in energy use per square metre or improvement in energy use per employee, but stakeholders raised concerns over the potential administrative burden. In addition these metrics are not applicable across the overall target sector, given the diversity of CRC organisations. By contrast, turnover and revenue expenditure would have the following important advantages:

- They are reported by all organisations, and so would provide a broadly acceptable, common measure – thereby maintaining scheme simplicity;
- They are already closely audited as part of the accounting process; and
- As externally published figures, reporting and verifying them would not place any significant additional administrative burden on participants or Scheme Administrators.

The proposed metric will reward improvements in energy efficiency, in line with the rest of the scheme design. It will not disadvantage relatively energy intensive organisations within CRC, as it will not be measuring absolute levels of energy intensity.

Government will require participants to submit an audited and published turnover/revenue expenditure figure for the most recent financial year that corresponds most closely with the emissions reporting year. For organisations that do not report financial information on a financial year basis (e.g. those that report January to December) this may result in a slightly reduced overlap of time between the two sets of data - since information would have to be recorded as part of the reconciliation process by the 31 July.

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Box 8.4: Calculating the 'Growth Metric'

In this example, in year 6, Organisation Y's annual carbon emissions have declined by 27% relative to the preceding five year average emissions. During the same period Organisation Y underwent a period of growth during which its turnover grew from £10,000/year in year 1 to £13,500/year in year 6. Consequently it had a corresponding reduction in its emissions per unit turnover relative to its ongoing average emissions per unit turnover and is likely to score well in the league table.

Row	Organisation Y	Calculation	Yr1	Yr2	Yr3	Yr4	Yr5	Yr6
a	Annual emissions (tCO2)		1000	900	900	850	800	650
b	Turnover (£)		£10,000	£11,000	£12,000	£12,500	£13,000	£13,500
c	Annual emissions per unit turnover (CO2/£)	a/b	0.100	0.082	0.075	0.068	0.062	0.048
d	Preceding 5 year average emissions per unit turnover (CO2/£)	average of row c, up to a maximum of 5	0.100	0.100	0.091	0.086	0.081	0.077
e	Reduction in emissions per unit turnover relative to average	d-c	0.000	0.018	0.016	0.018	0.020	0.029
f	League table metric = % reduction in emissions per unit turnover relative to average emissions per unit turnover	e/d	0%	18%	18%	21%	24%	38%

8.4 Formulating the overall CRC Performance League Table

As stated in the 2007 consultation, once CRC participants have submitted their emissions data Government will construct and publish the Performance League Table (PLT). This league table is an essential part of CRC as it will link financial and reputational drivers, and incentivise abatement. Once published, it will indicate participants' performance within the scheme and, as outlined below, this will be used to award a percentage bonus or penalty to the level of recycled revenue each participant receives.

In order to formulate the overall league table, the Administrators will rank participants relative to their performance in each of the three different metrics. For each metric, participants will be ranked and each will be assigned points equal to their position from the bottom of the table (i.e. one point for last position, increasing linearly to the top of the table). The participants' three points scores (one for each metric) would then be combined on a weighted average to calculate their overall performance score, which would be used to rank them in the final league table.

Submitting data for the growth and early action metrics will not be a mandatory requirement of the scheme. However, if a participant chooses not to submit data for either the early action or Growth Metrics then they would be awarded zero points for that metric. It will therefore always be in the interest of a participant to disclose this data – i.e. even if a participant had performed very badly in a particular metric it would still score at least one point. Therefore participants will always benefit from submitting data for all three metrics.

The performance for each of the separate metrics will also be published alongside the overall consolidated league table. Please refer to Part 1 Schedule 20 of the Draft Order.

8.4.1 Weighting the metrics

In light of stakeholder feedback, and to retain the primary emphasis on the scheme driving absolute carbon savings in context of Government's absolute 2050 goal, Government will – for the second and third years of the Introductory Phase – weight the absolute: early action: Growth Metrics as 60% : 20% : 20%. However, the first published league table will be based solely on the early action metric, because at this time Government will only hold one year's worth of emissions data. The early action metric will only apply for the Introductory Phase. For the subsequent capped phases, the weighting of absolute: Growth Metrics will be 75% : 25 % .

Box 8.5: Worked example of calculation of the overall league table score

Organisation A has come 100th out of 5,000 participants in the absolute metric and scores 4900 points, 200th in the early action metric scoring 4800 points and 1500th in the Growth Metric scoring 3500 points. Its score in the overall league table is calculated below:

Metric	Ranking	Score	Weighting	Weighted Score
Absolute	100th	4900	0.6	2940
Early Action	200th	4800	0.2	960
Growth	1500th	3500	0.2	700
Overall Combined				**4600**

All participants will then be ranked based on this overall combined score to form the Performance League Table.

Overall Rank	Organisation	Absolute metric		Extent of voluntary AMR & CTS		Growth metric		Weighted average score 60:20:20
		% Reduction	Score	Absolute extent	Score	% Reduction	Score	
1	**Organisation A**	**10%**	**4900**	**80%**	**4800**	**15%**	**3500**	**4600**
2	Organisation B	9%	4850	75%	4400	10%	3000	**4390**
3	Organisation C	9%	4845	60%	3200	5%	2500	**4047**
-	-	-	-	-	-	-	-	**-**
2500	Organisation ABC	0%	2500	22%	1200	5%	2450	**2230**
-	-	-	-	-	-	-	-	**-**
5000	Organisation XYZ	-10%	1	15%	500	-15%	1	**101**

Question 31. **Does the wording in the Draft Order (Paragraph 11 of Schedule 20) around the calculation of the Performance League Table lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

8.4.2 Publication of the Performance League Table

Government proposes that the Performance League Table (PLT) will be published twice in relation to the same compliance year on the Administrators' website. The first league table will be published at the end of October. To ensure revenue

recycling payments can be paid six months after the sale of allowances, an organisation's bonus or penalty payment will be linked to the first published league table.

Government proposes to issue a second revised league table at the beginning of the following compliance year (April), to take into account the outcome of any appeal process related to ranking in the league table. More details about the appeal process, and in particular appeal against ranking in the PLT, is provided in section 11.4 of this consultation document.

Revenue recycling payments will not be adjusted as a result of this additional publication, which is to ensure accuracy and fair reporting in the scheme (for details of possible compensation due to Administrators' error see section 11.4).

Taking for example the compliance year 2014/2015, the first PLT and related revenue recycling will be issued at the end of October 2015. Government proposes to issue an updated PLT in April 2016, to take into account the outcome of any appeal brought against the October 2015 PLT.

Question 32. **Do you agree that the Performance League Table should be published twice, to take into account the outcome of appeals and adjustments necessary to correct any errors?**

Yes / No / Don't know

If no, please explain reasoning and your preferred alternative approach

8.5 Using Historic Averages to assess performance

Government will assess a participant's annual performance in both the Absolute and Growth metrics against a rolling five year baseline made up of the mean average of the preceding five years of the scheme. Until Government has collected five year's worth of scheme data, performance will be assessed against an average calculated using data since the start of the scheme. For participants joining the scheme in future phases Government will use data collected from the footprint year (see section 9.2.1) onwards to calculate the participant's historic average emissions.

This approach has two key benefits. Firstly, using an average further helps to take account of growth, decline and organisational change by showing a representative picture of a participant over an extended period of time. Secondly, using a rolling average provides an incentive for continuous improvement within the scheme as it enables a participant to change its position in the league table and avoids extreme circumstances having a permanent impact on a participant's ranking.

8.5.1 Updating historic average emissions baselines

CRC will not update historic emissions baselines to account for changes to a participant's operations, such as the transfer of assets, the sale of sites or subsidiaries, or changes in tenancy agreements. To do so would create an enormous administrative burden on both participants and the Scheme Administrators who would both be required to keep a record of emissions from each individual site or business unit and update baselines as and when a site was sold. This approach draws on the experience gained from the pilot UK ETS and has been supported by participants in both previous rounds of consultation. As described above, the scheme includes the 'Growth Metric' and uses a five year rolling average baseline against which performance will be assessed, both of which will provide recognition of a participant's ongoing organic growth or decline.

However, there are three instances where Government proposes to update historic emissions baselines. These are;

- where a participant ceases to be eligible for a Climate Change Agreement as a result of changes to eligibility criteria; or
- where participants or Principal Subsidiaries have been bought or sold.
- Where a participant has emissions transferred from EU ETS into CRC as a result of changes to the Regulations

These are outlined in more detail below.

To reduce administrative burdens on participants, Government does not propose to make adjustments to a participant's early action score, or Growth Metric score to reflect these changes. The nature of both these metrics should mean that participants' scores reflect the change in circumstances.

8.5.2 Updating emissions baselines for transfers between CCAs and CRC

As discussed earlier Climate Change Agreements (CCAs) are voluntary, although eligibility to join the agreements is determined by Government.

Therefore, Government will only update a participant's historic emissions baselines where the participant became ineligible due to the unexpected situation that Government changed the eligibility criteria. Where a participant lost its CCA for any other reason, or voluntarily withdrew from a CCA, baselines and revenue recycling payments would not be updated.

There are three different scenarios where a participant's emissions baseline and revenue recycling would be updated to reflect a change in CCA criteria:

Scenario 1: *A participant who previously had a small proportion of its emissions excluded from the scheme due to a CCA, loses the exemption due a change in CCA criteria and has these CCA emissions transferred into CRC.*

To prevent the participant being penalised, its historic emissions baseline would be adjusted to reflect the total emissions transferred into the scheme. The adjustment would be made on the basis of accurate data being provided to the Administrators. This data should have been collected as part of the CCA and therefore will be relatively straightforward for the participant to submit. The revenue recycling (2010) emissions would be adjusted by data provided as part of the Footprint Report.

Scenario 2*: A participant who previously has one or a number of its subsidiaries' emissions exempted from the scheme under the group member exemption rule (see section 5.2.1) loses the exemption due to a change in CCA eligibility criteria and is required to include those subsidiaries' previously excluded emissions (not just CCA emissions) in CRC.*

In this instance the participant may not be holding emissions data for the subsidiary's non-CCA emissions that were previously excluded from CRC. Therefore historic baselines would be adjusted on the basis of a pro-rata calculation using the data submitted as part of the Footprint Report to assess the participant's eligibility criteria, and their on-going CCA emissions. For example, if a participant had a subsidiary excluded on the basis that it had 50% of its emissions in a CCA then the participant's historic baseline would be increased by their CCA emissions multiplied by two to include the 50% of the subsidiary's emissions that were excluded from CRC but not covered by its CCA. The revenue recycling base year (2010/2011) would be updated in the same manner.

In both these scenarios the CRC organisation would need to notify the Scheme Administrators with appropriate data and in sufficient time, in order for baselines to be updated. Any updates to the 'league table baselines' would be carried out each year, rather than waiting until the next phase (no changes would be made to the 'early action' metric).

Scenario 3: *An organisation that was entirely exempt from CRC due to its CCA coverage (either because it has no subsidiaries, or because it qualified for a Residual Group Exemption (see section 5.2.2)) loses the exemption due to a change in CCA eligibility criteria and is required to participate in CRC from the start of the next year.*

In this instance the organisation's historic emissions baseline would be calculated from the year they came into the scheme. The Administrators would not calculate a historic baseline. The revenue recycling base year would be the first year they participated in the scheme.

The CCA adjustments to historic emissions baselines are provided for by paragraphs 14 to 16 of schedule 20 of the Draft Order.

Question 33. **Does the wording in the Draft Order (Para 14 to 16 of Schedule 20) around the methodology for updating baselines to account for CCA emissions transfers lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

8.5.3 Updating emissions baselines to reflect the purchase or sale of a Principal Subsidiary or entire CRC participant (Designated Changes)

The sale or purchase of a participant or Principal Subsidiary (Designated Changes) would result in the purchasing participant having to report on a significantly higher number of emissions and the selling organisation having a corresponding number of emissions transferred out of their emissions portfolio.

Therefore, to address this, as outlined in previous sections of this document Government proposes to place obligations on participants to report a separate emissions figure for each of their Principal Subsidiaries to account for Designated Changes (section 2.3.1). This will enable a participant's historic emissions baseline and revenue recycling base year to be updated in the event that a principal subsidiary was bought or sold by another participant, or to create a historic emissions baseline for a non-participant who purchased a principal subsidiary. Updating baselines to reflect these purchases or sales would increase the accuracy of the Performance League Table and reduce the instances of participants appearing to have performed well simply through selling off a significant part of their business.

Any Designated Change is deemed to have taken place at the start of the reporting year during which the transfer took place, irrespective of whether the sale or purchase occurred in the middle of the year. This is to avoid the administrative complexity of updating baselines to report part years in the event of a participant or principal subsidiary transferring ownership a number of times during the year. Historic emissions baselines and revenue recycling calculations would therefore be updated to reflect that the transfer that took place at the start of the emissions year in question.

At the time of the purchase the selling and purchasing participants and/or non participant will be required to notify the Administrators via the registry system. The

records for the selling and purchasing organisations will automatically reflect the sale with the records for both parties amended to reflect the current ownership.

It is stressed that, Government proposes to update historic baselines involving the purchase or sale only of Principal Subsidiaries or participants deemed to be 'Designated Changes'. Examples of the changes are provided in Annex 1.

Paragraphs 17 to 18 of schedule 20 of the Draft Order provides for adjusting baselines to account of these changes.

Question 34. **Do you agree that Government should update historic baselines to reflect the sale or purchase of Principal Subsidiaries and participants ('Designated Changes')?**

Yes / No / Don't know

If no, please explain

Question 35. **Does the wording in the Draft Order (Para's 17 and 18 of schedule 20) around the methodology for updating baselines to account for 'Designated Changes' lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

8.5.4 Updating emissions baselines for transfers between EU ETS and CRC

By definition, emissions transfers between EU ETS and CRC could occur only for a small minority of CRC organisations (as most CRC organisations would never have any emissions in EU ETS). Such transfers could occur, for example if public policy is established to remove 'small emitter' installations from phase III of EU ETS. Where these installations belong to CRC organisations (for example, a CRC hospital), the emissions would naturally transfer from EU ETS into CRC, increasing the organisation's total CRC emissions

In the event of such transfers Government proposes that historic baselines would be updated using EU ETS data, providing the CRC organisation notifies the Scheme Administrators with appropriate data and in sufficient time. Any updates to the emissions baselines would be carried out each year, rather than waiting until the next phase. (No changes would be made to the early action or Growth Metrics.)

8.5.5 Continuity between phases

Government will transfer a participant's historic emissions baseline from phase to phase where the parent participant is included in the scheme and remains the same entity from one phase to the next.

Where a participant or principal subsidiary has been purchased by a non-participant during a phase then that new parent will enter the scheme for all its emissions at the start of the next phase. At the start of the phase this 'new' CRC participant organisation will have to include additional emissions in the scheme from the parts of the business that were not previously covered. In these instances Government will not transfer baselines from one phase to another as the 'new' participant would see a drastic increase in its emissions and be unfairly penalised. Where this happens Government will commence the historic emissions average from the start of that phase, i.e. the footprint year.

Schedule 17 deals with continuity between phases in the Draft Order.

8.6 Additional disclosure of information on carbon management

Alongside the publication of the main league table, Government will publish additional information on the performance of a participant's Principal Subsidiaries, its total emissions (both at participant and Principal Subsidiary level), its relevant business sector and its responses to three questions around its carbon management that can be used by participants to help provide context to its overall league table position.

8.6.1 Principal Subsidiaries

Government will require organisations to disclose the performance of their large subsidiaries ("Principal Subsidiaries") to place their overall performance in context, and to help drive improved energy efficiency in those subsidiaries. Government therefore proposes to publish the results of Principal Subsidiaries alongside the main league table.

8.6.2 Tick box Questions

As stated in the Government response to the CRC policy design consultation, to increase CRC's leverage of reputational drivers, to add context to the league table, and to encourage a more strategic approach to managing carbon with reference to longer term targets, Government has decided to include three simple voluntary tick box questions as part of the scheme. Note that such disclosure will not impact on the revenue recycling or an organisation's league table position.

To minimise administrative burden and to ensure that the questions are easily auditable as part of the CRC approach of self-certification (backed up by risk-based

audit), they are based simply on disclosure – i.e. whether an organisation had reported on an issue in its corporate annual report (or annual environment/sustainability/CSR report).

The intention is that affirmative answers mean that an organisation must have measures in place covering the *majority* of their emissions). The proposed questions are in terms of CRC energy use, although an organisation could choose to respond in relation to its total organisation emissions as long as a majority of its CRC emissions were covered. Accordingly, Government proposes that the league table would include 'tick box' responses to the following questions:

1. Does your CRC organisation disclose long-term carbon emission reduction targets in its annual reporting in respect of the *majority* of its CRC energy use Yes/No

2. Does your CRC organisation disclose carbon emissions performance against these targets, in its annual reporting in respect of the *majority* of its CRC energy use? Yes/No

3. Does your CRC organisation name a Director with responsibility for overseeing carbon performance, in respect of the *majority* of its CRC energy use, in its annual reporting? Yes/No

The emphasis of Question 1 on providing a 'long-term' target (defined as covering a period of five years ahead or more), is to encourage organisations to take a more strategic approach to carbon management, beyond publishing their forecasted allowance needs for the following year.

Organisations will have the opportunity to tick, as appropriate, each of the three boxes in their annual CRC self-certification. The proposed independent risk-based audit of around 20% of organisations per year will include checking whether organisations had self-certified accurately.

Paragraphs 21 to 23 of schedule 20 of the Draft Order provide the powers to publish the additional information around emissions and Principal Subsidiaries and 24 to 26 of Schedule 20 of the Draft Order provide the framework for the voluntary provision of this information.

Question 36. **Does the wording in the Draft Order (paragraphs 21 to 26 of schedule 20) around the disclosure of information on energy management lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

8.7 Bonuses and penalties

The league table has been introduced to add an additional financial incentive to organisations, alongside the reputational driver. The recycling performance payment would be proportional to CRC emissions during the first year of the scheme (2010/11), with a separate bonus or penalty assigned to each league table position. In line with the Introductory Phase's aims of introducing participants to the scheme slowly, in the first year the bonus or penalty will be between +10% and -10% - i.e. an organisation at the very top of the league table will be paid an amount proportional to 1.1 times their 2010/11 emissions.

Stakeholders have highlighted a risk that a +/- 10% bonus or penalty will be insufficiently strong to drive the necessary uptake of energy efficiency opportunities within the target sector. If the incentives are too weak, CRC organisations may simply purchase safety valve allowances rather than drive energy efficiency within their organisations.

As previously stated in the Government response to the 2007 consultation, to strengthen this financial incentive Government has therefore decided to raise the level of bonus or penalty over time as follows:

October 2011	+/-10%
October 2012	+/-20%
October 2013	+/-30%
October 2014	+/-40%
October 2015	+/-50%

Table 8.1: Max Bonus/Penalties in First five Years

Government estimates that the maximum net financial incentives from the auction and revenue recycling with a bonus or penalty set at +/-10%, would be equivalent to around a +/-1.5% impact on the energy bill[36], depending on an organisation's position in the league table (i.e. Government estimates that an organisation at the bottom of the league table that makes no effort on energy efficiency could see a 1.5% increase in its energy bill). This is in a context where the total energy bill for large non-energy intensive organisations is typically 1-3% of total operating costs. In

[36] As previously noted, the estimate of around +/-1.5% on the energy uses an allowance price of £12/tCO_2 (around one and a half times the current level of the CCL), that the CCL accounts for around 10% of the energy bill.

the fifth year of the scheme, with a maximum bonus and penalty of +/- 50%, these figures will have risen to a maximum impact of roughly 8% on the energy bill.

Government will take into account the views of the Committee on Climate Change when deciding the trajectory of bonuses and penalties beyond the first five years of the scheme.

9 Compliance, Reporting and Record Keeping

The compliance requirements of CRC have been designed to be as administratively straightforward as possible for participants. The design of the scheme, and in particular reporting obligations, has drawn on experience from the pilot UK Emissions Trading Scheme (UK ETS), the European Union Emissions Trading System (EU ETS) and Climate Change Agreements (CCAs), to develop an administratively 'light touch' and robust scheme.

9.1 Participant obligations

Participants in CRC will be required to comply with a number of requirements set out in the Draft Order. These requirements, can be grouped according to two main types of obligation: **administrative and reporting requirements** including registration, reporting and maintaining evidence records; and obligations related to participants' **performance**, such as the cancellation of a sufficient number of allowances to cover annual CRC emissions, or the requirement to report data as accurately as possible. Other performance requirements include general cooperation- with the Administrators and relevant assistance provided in the cases of Responsible and Associated Persons (see section 2) such as schools and franchising.

The key obligations on **participants** within CRC are outlined below and are described in more detail in other sections of this document:

- **Registration** (see section 3.4) – Any organisation that meets the qualification criteria, has a legal obligation to register as a participant by the last working day of September of the first compliance year in the case of the Introductory Phase. For subsequent phases, the registration deadline is the last working day of the footprint year.(Article 36 and Schedule 10 of the Draft Order).
- **Residual measurement list** (see section 4.6) – Participants are required to ensure that at least 90% of their footprint is regulated by a combination of either EU ETS, CCA or CRC. In those instances where the applicable 90% of emission coverage is not met by gas and electricity through certain types of meters (core sources), participants will need to include other energy sources in CRC and record this inclusion on a 'residual measurement list'. The list is also required in those instances where participants voluntarily decide to add additional energy sources in CRC (Article 38 and Schedule 12 of the Draft Order).
- **Footprint Report** (see section 9.2.1) – Participants are required to submit a Footprint Report once per phase. The report aims to provide the Administrators with information related to the footprint emissions of that organisation, the applicable percentage of emission coverage, and the emissions that are included in CRC (Article 37 and Schedule 11 of the Draft Order).

- **Annual Report** (see section 9.2.2) – Participants are required to submit an annual report to notify the Administrators of their relevant energy use over the course of a compliance year, and to provide evidence in relation to the number of allowances they must obtain and cancel that year (Article 39 and Schedule 13 of the Draft Order).
- **Performance commitment** – Every year participants are required to hold and cancel sufficient allowances to cover the energy use emissions included in the scheme (article 41).
- **Correct reporting** (see section 9.2) – Organisations need to ensure their reports are as accurate as possible to encourage organisations to establish best practice for energy management, so that the Administrators can accurately develop the Performance League Table and ensure that the correct number of allowances have been cancelled (Articles 37 and 39).
- **Evidence pack** (see section 9.6) – Organisations are required to maintain an up to date record of documents related to their energy use. This record forms the basis of the Annual Report to the Administrators and represents an audit trail by which the Administrators can verify the data submitted in the Footprint and Annual reports (Article 44 and Schedule 14 of the Draft Order).

Question 37. **Does the wording in the Draft Order (Part 3, Chapter 2) around participant obligations lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

9.2 Reporting obligations

As outlined in the June 2007 Consultation, participants will be required to report their annual energy use emissions four months after the end of the compliance year to give participants sufficient time to collate their data, buy any additional allowances they may need and update their records. With the move to a financial, rather than calendar year, as the basis for the scheme, Government proposes that the reporting deadline will now be the last working day in July. The reporting deadline in relation to the first year of the scheme, the year 2010/2011, will be Friday 29 July 2011.

Reporting will be web-based, through an online Registry system, as described in section 9.9. Participants would be required to enter details of their energy use and the Registry would then carry out the calculation to convert each energy source into tonnes of carbon dioxide (tCO_2).

The Registry system will use the emission conversion factors listed in the Draft Order (see Schedule 5 of the Draft Order and section 9.3 of the consultation document). An online carbon dioxide calculator, using the CRC conversion factors, will be available on the website for participants to use as a reference tool.

The Draft Order distinguishes between two types of reports: the Footprint Report and the Annual Report, which are discussed further below.

9.2.1 Footprint Report

The Footprint Year is the first year of each phase during which participants must monitor and record energy use across their organisation and establish the sources of energy use to be included in CRC for that phase. As the function of this year is to establish a set of data that could act as a 'footprint' for the duration of a phase, Government will refer to this year as the 'Footprint Year'.

To allow participants sufficient time to prepare for the scheme, and to reduce administrative burdens on participants, Government proposes that, in the Introductory Phase only, the Footprint Year will run concurrently with the compliance year of the phase – the financial year 2010-2011. This is a change from the Government Response to the CRC policy design consultation, which proposed that participants would monitor their total emissions profile during the full calendar year 2009.

Participants will need to collate the data they used to calculate their footprint emissions, establish the applicable percentage of emission coverage and compile a Footprint Report. This report will contain information about organisational energy use and the sources to be included in the scheme for that phase. The report must be submitted via the Registry by the last working day of July, after the end of the Footprint Year.

The content of the Footprint Report is set out in Schedule 11 of the Draft Order. The information that must be submitted as part of the Footprint Report is outlined below.

- **Total core electricity consumption (as defined in section 4.8.1).** In order to calculate their total core electricity consumption participants must collate all the data related to the quantity of electricity consumed through meters that are classified as 'Core sources' (see section 4.8.1 of this consultation document).
- **The total value of any electricity credit (as defined in section 9.4).** Participants must identify and calculate the total amount of electricity that they generated within their organisations over the course of the Footprint Year. The value of a credit equals the emissions attributable to the quantity of electricity generated and supplied in that year. The total value of credits will be automatically subtracted from the total amount of electricity consumption reported. If the credit was achieved in an EU ETS or nuclear plant, the credit can be claimed only in relation to the electricity used at that particular plant.

- **Total core gas consumption (as defined in section 4.8.2).** In order to calculate their total core gas consumption, participants must collate all the data related to the quantity of gas consumed through meters that are qualified as Core sources.
- **Total amount of any residual energy consumption (as defined in section 4.6)**
- **The residual consumption that the participant has decided to include in CRC** (or must include in CRC because it did not reach the applicable percentage of emission coverage) and forms part of its residual measurement list (as defined in section 4.6).
- **Total amount of any other energy consumption that is not covered by the scheme (see section 9.3).** Government proposes that the use of any fuels which are not included in the emissions factor (Schedule 5 of the Draft Order) should be disclosed.

If the participant is required to compile a 'residual measurement list' in order to reach the applicable percentage of emission coverage (or because the participant wishes to opt in CRC additional energy sources), the participant will need to inform the Administrators of the existence of the list, as part of the information submitted in the Footprint Report. The list itself will not have to be submitted, but it will form an integral part of the evidence pack and will be checked at audit.

The participant will then disclose the percentage of its total footprint emissions, measured over the course of the footprint year, which falls within the following categories: (and will be required to record in its evidence pack the consumption or emissions data necessary to support these disclosures)

- Percentage of total core energy consumption. This needs to include all electricity and gas consumed through Core sources.
- Percentage of total emissions from activities included in EU ETS.
- Percentage of total emissions which are subject to a CCA (not covered by EU ETS).
- Percentage of emissions that are related to Residual sources and are covered by the residual measurement list.

In addition to the requirements outlined above, Local Authorities will need to provide separate totals of the various data outlined above, in respect to the schools they are responsible for. Their residual measurement list in relation to schools is discussed in section 4.7.

Participants that are also part of a CCA, will need to disclose information related to the footprint emissions included in CRC, the total emissions covered by the CCA agreement (and any emissions included in EU ETS), and the total footprint emissions of the group member exempted from CRC as a consequence of the CCA exemption (See section 5.2 of this document). Further, in those instances where the

residual exemption applies (see section 5.2.2 of this document) the participant will have to report the total amount of half hourly electricity supplied.

Question 38. **Does the wording in the Draft Order (Schedule 11) around the Footprint Report lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

9.2.2 Annual Report

Monitoring and reporting total footprint emissions is a requirement of the Footprint Year only, i.e. it will occur once per phase. The energy use that participants have to monitor and report every year as part of CRC is the energy use only from those sources that have been included in CRC (Core and any residual sources), which have been established in the Footprint Report.

Participants should monitor their CRC energy use throughout each compliance year and ensure the related information is collected and included in the evidence pack. After the end of the each compliance year, participants will have to report their CRC emissions to the scheme Administrators in the form of an Annual Report. The deadline for submitting the Annual Report is the last working day of July.

The Annual Report will allow the Administrators to monitor the participant's energy use emissions year on year and to verify compliance with the performance commitment. (i.e. the annual surrender of the required number of allowances) The essential element of compliance with CRC is that participants have to hold and cancel a number of allowances corresponding to their annual CRC emissions. By the end of July following each compliance year, participants will submit an Annual Report and must also hold and cancel the correct number of allowances at the same time.

The content of the Annual Report is set out in details in Schedule 13 of the Order. The information requested can be clustered in two categories: general information and specific information.

9.2.3 General information

All participants are required to disclose the following information:

- **Total net core electricity consumption, both estimated and actual.** Government proposes that participants will be required to report only the net electricity consumption. In practice this means that participants should calculate and

subtract the value of the total electricity credits from total electricity consumption figure. Participants should prepare separate totals indicating whether the source was an actual reading or an estimate.

- **Total non-core electricity consumption** from residual sources, split between estimated and actual.
- **Total core gas consumption** (gas supplied), both estimated and actual.
- **Total non-core gas consumption** from additional sources, split between estimated and actual.
- **Total consumption from any other fuels** as specified in the 'residual measurement list'.

The information will be entered into a standard submission template on the Registry system which will include the standard conversion factors. The Registry will automatically convert the energy use figures to tonnes of CO_2.

9.2.4 Specific information

Participants will also be required to disclose the following specific information:

- Total emissions of any principal subsidiary,
- The total amount of electricity for which Renewable Obligation Certificates (ROCs) have been issued,
- Any further information that the participants might want to submit if they wish to make use of the Growth Metric (turnover/revenue expenditure) and the Early Action Metric. (AMR and CTS coverage),
- Use of any fuel not included in the emissions factors table

If any designated business changes take place during the compliance year (see Section 2.3.1 of the Consultation document), the participant will need to ensure that the details of the change have been accommodated in the participant's account. Any Designated Change is deemed to take place at the beginning of the compliance year and the participant's report should reflect this.

Question 39. **Does the wording in the Draft Order (Schedule 13) around the Annual Report lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 40. **Do you agree with Government's proposals for the Footprint and Annual reports?**

Yes / No / Don't know

If no, please explain and suggest and alternative proposal which maintains the integrity and auditability of the scheme.

9.3 Measuring energy use

9.3.1 Emissions factors

Government is proposing that participants report their energy consumption by fuel type, using the measurement unit specified in the Order. These amounts are then converted by the Administrators into tonnes of carbon dioxide by the application of standard conversion factors. In practice this operation will be performed by the online Registry (Section 9.9 of this consultation document for more details on the Registry).

For administrative ease, Government proposes to specify the conversion factors in terms of the most commonly measurement unit per fuel (i.e. $kgCO_2$/per measurement unit), rather than listing all of the conversion factors in $kgCO_2$/kWh (see article 33 of the Draft Order). Participants will be required to input their energy consumption figures into the Registry in the measurement unit as identified in the table of Schedule 5 of the Draft Order. The conversion factors that are being proposed have been developed on the basis of factors currently used in a range of recognised sources such as the Defra Voluntary Corporate Reporting Guidelines and the Intergovernmental Panel on Climate Change (IPCC).

The conversion factors in this Schedule are split into three categories:

Grid electricity

As stated in the Government response to the CRC policy design consultation, Government proposes that the grid electricity emissions factor for CRC will be based on the five year rolling average emissions factor (currently 0.537 $kgCO_2$/kWh). This ensures that the CO_2 emissions from the use of grid electricity are accurately represented within the reporting process.

The five year rolling average is used because it is based on the UK electricity generation mix of coal, nuclear, gas turbines and renewables, which can change year on year. Government considers this to be the most appropriate factor for determining CO_2 emissions from electricity use.

Supplies of gas

Government proposes to use the conversion factor of 0.185 $kgCO_2$/kWh for gas supplied by a licensed energy supplier through the network. The purchase of bottles or canisters of gas is dealt with under the section ‘Other fuels’ below.

Other fuels

The fuel sources listed under this section include any fuel which is not supplied via the electricity or gas transmission networks.

Converting fuel types to CO_2		Gross CV Basis
Fuel Type	Measurement Unit	Emissions Factor $kgCO_2$ / per measurement unit
Aviation Spirit	Tonnes	3128
Aviation Turbine Fuel	Tonnes	3150
Blast furnace gas	kWh	0.97
Burning Oil/Kerosene/Paraffin	litres	2.518
Coke Oven Gas	kWh	0.15
Coking Coal	tonnes	2810
Colliery Methane	kWh	0.18
Diesel	litres	2.630
Fuel Oil	tonnes	3223
Gas Oil	litres	2.674
Industrial Coal	tonnes	2457
Liquid Petroleum Gas (LPG)	litres	1.495
Lubricants	tonnes	3171
Waste	tonnes	275
Naphtha	tonnes	3131
Natural Gas	kWh	0.185
Other Petroleum Gas	kWh	0.21
Petrol	litres	2.315

Petroleum Coke	tonnes	3410
Refinery Miscellaneous	kWh	0.245
Scrap Tyres	tonnes	2003
Solid Smokeless fuel	tonnes	2810
Sour gas	kWh	0.24
Waste solvents	tonnes	1597

Table 9.1: Fuel Converstion Factors

As highlighted in the previous consultation document, on grounds of administrative simplicity, it is proposed that the emissions factors would be revised only at the start of each phase (to take account of any change). The grid electricity factor would be updated to the most recent five year rolling figure available.

Renewable fuel sources are not included in the table above. Where fuels, including renewable fuels, do not appear in the table above, participants will not have to buy allowances to cover consumption of those fuels.

Government proposes that the use of any fuels which are not included in the emissions factor table above should be disclosed in the Annual and Footprint Reports, but that the participant would not be required to hold and cancel allowances associated with this consumption. Government proposes that the disclosure should be on the type and quantity of fuel used. Government believes that this is sufficient for transparency and auditing purposes, but welcomes views.

Question 41. **Do you agree that the fuel conversion factors should be in $kgCO_2/$ per measurement unit, rather than $kgCO_2$/kWh or any other measure?**

Yes / No / Don't know

If no, please explain why?

Question 42. **Do the fuels listed in this section (and as set out in the table) cover all the fuels used by your organisation, other than those which are from 100% renewable resources?**

Yes / No / Don't know

If no, which fuels are missing from this table?

Question 43. **If you do not agree with the fuel conversion factors stated in the table above, please explain why you think the conversion factors should be different to those stated above.**

Question 44. **Are there any unintended consequences from the energy factors proposed?**

Question 45. **Do you agree with Government's proposal to require the disclosure of the type and quantity of fuels not listed in the conversion table?**

Yes/no/ Don't know

If not, please explain your reasoning

Treatment of mixed fuels

Government recognises that in some circumstances participants may consume mixed fuels. In this instance the participant must report the quantity of each constituent part such that the sum equals to the total amount consumed All evidence regarding usage of mixed fuels should be recorded within a participant's evidence pack.

Where blends including biofuels are used, Government proposes that participants may report only the emissions from the fossil fuel element of these fuels, only where there is appropriate auditable evidence for the exempt biofuel content. Biofuels themselves would be reported as part of the disclosure obligations on other fuels.

Question 46. **Do you agree with the proposed treatment of estimates regarding mixed fuels?**

Yes / No / Don't know

If no, please suggest and justify any alternative treatment

9.3.2 Application of 10% emissions uplift

As stated in the Government's response to the CRC policy design consultation, in order to provide an incentive for CRC participants to accurately measure energy use and not to rely on approximation techniques, all estimated energy consumption figures will be subject to a 10% uplift.

In order for electricity and supplied gas not to be classed as estimated, Government is proposing that a CRC organisation must retain auditable evidence, which could be via the supplier statement, energy bills or internal records of actual meter readings (i.e.; own meter reading log sheets), for a period covering six months during a reporting year. Government proposes that if an organisation is able to provide such evidence, the entire energy consumption through that meter will not be considered as an estimate and will not incur the 10% adjustment factor for that reporting period. For example, if an organisation reads meters from April to September, inclusive energy consumed through that meter would not be subject to an uplift.

Where a CRC organisation does not have actual meter readings for a period covering six months during a reporting year, the 10% estimation adjustment must be added in respect of the entire energy consumption during that reporting period, even if some of that period is covered by actual meter readings. Schedule 9 in the Draft Order sets out how the estimation uplift will be applied to electricity, supplied gas and other fuels.

Government proposes that for fuels other than electricity or gas supplied through national transmission networks, the estimation adjustment is applied where a participant is not able to provide evidence covering a period of at least six months during a reporting year in relation to the amount of fuel it has consumed, purchased or otherwise obtained. Where invoices, or any other documents which are produced or confirmed by a third party, are available, the fuel would not incur the estimation uplift.

Government appreciates that it might not be possible for participants to rely exclusively on accurate documentation or actual readings, and that in several circumstances the use of approximation techniques is unavoidable. For this reason, Government is planning to issue Guidance on the use of suitable approximation techniques for estimating energy consumption.

Question 47. **Do you agree with the proposed approach to establishing when an energy bill counts as an estimate for the purposes of applying a 10% emissions uplift?**

Yes / No / Don't Know

If no, please describe how you would propose to define non-estimated bills to ensure transparency, accuracy and auditability?

9.3.3 Reporting treatment of 'Green Tariff' electricity

In line with the position outlined in the Government response to the CRC policy design consultation, and in line with general Government position[37], electricity supplied to participants via the grid will be treated equally using the grid average conversion factor, irrespective of the tariff structure adopted by the customer. This means that 'green tariff' electricity sourced via the national grid will not be treated differently from standard tariffs. This is consistent with the approach taken under UK ETS and CCAs.

To count 'green tariff' electricity as having zero carbon content would undermine the scheme's objectives to achieve real and additional emissions reductions by lower levels of energy consumption and increased energy efficiency at organisation level. Government considers that zero rating 'green tariff' electricity in CRC would almost certainly not deliver any additional renewables supply or carbon savings.

This is because licensed electricity suppliers are obliged under the Renewables Obligation to source a specific and annually increasing percentage of the electricity they supply from renewable sources (currently 9.1% for 2008/09 rising to 15.4% by 2015/16). For each MWh of renewable electricity generated, the supplier receives a tradable certificate called a Renewable Obligation Certificate (ROC). Suppliers can meet their Obligation by acquiring ROCs from electricity generators, paying a buy-out price or by a combination of ROCs and buy-out price. Therefore, suppliers are already under a requirement to supply renewable electricity.

9.4 Treatment of electricity generation in CRC

9.4.1 Overview

CRC will cover organisations that are both users and generators of energy. The Government response to the CRC policy design consultation proposed that if a

[37] Defra News Release – Green Tariffs: Check what yours delivers – see http://www.defra.gov.uk/news/2008/080616a.htm

participant generates electricity where the primary fuel into that process is covered by CRC:

- any exports of electricity to the grid, or to other users then the participant may be entitled to claim a credit for the amount of electricity generated and supplied (see diagram 9.1)
- Any electricity generated and consumed by the participant (i.e. not exported to the grid), will not gain electricity credits, nor require *additional* allowances to be surrendered in CRC, and consequently will not need to be reported.

The electricity generation credit can be offset against the electricity consumed by the CRC participant overall. The credit is calculated using the grid average emissions factor. This approach is also adopted for renewables where ROCs are not claimed, even though any fuels used for electricity generation will not require CRC allowances to be surrendered.

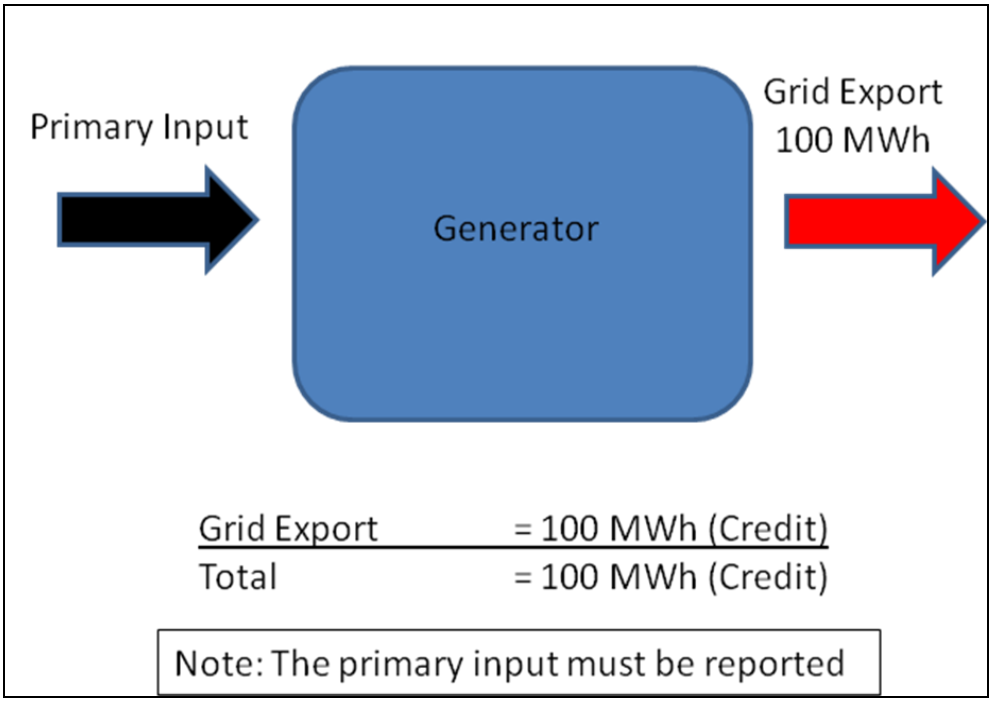

Figure 9.1: Non-EU ETS Electricity Generator

Government proposes that electricity consumed for the specific purposes of electricity generation, distribution, transmission and supply will not require CRC allowances to be surrendered in respect of this consumption. The current Draft Order (Schedule 6) relies on the provisions of the Electricity Act 1989 to define “supply” of

electricity. By drawing on this definition, we believe that electricity used by licence holders as defined under the Electricity Act 1989, for the purpose of carrying out their licensed activities, is excluded from CRC. Government intends, in line with the overall scheme objectives, that other activities carried out by licence holders, such as the running of data centres, and administrative functions, will require the surrender of CRC allowances. We will be considering further the definition of "supply" during the consultation, and welcome feedback.

To avoid instances which might result in CRC electricity credits being able to offset a whole organisation's consumption, where emissions from electricity generation are were not covered in CRC (such as EU ETS installations or large low/zero carbon generators), and to ensure that any renewable electricity obtaining CRC credits is genuinely additional, Government is proposing that some specific provisions apply to EU ETS, nuclear, large hydro (ineligible for the RO) and electricity for which ROCs are issued.

All electricity credits correspond to electricity generated over the course of a particular year and can be claimed only in connection with that compliance year (or Footprint Year) in which they were generated.

If over the course of a compliance year a participant accrues more credits than the organisation's total energy consumption, then the participant will be able to net off energy credits only up to zero.

9.4.2 EU ETS, nuclear, large hydro and pumped storage

The electricity generated by an EU ETS installation, a nuclear power station, a pumped storage hydro station, or a large hydro station ineligible for the Renewables Obligation (RO) will not be eligible for electricity credits under CRC..

Where generating installations are covered by the EU ETS, then the primary fuel used in the generation of electricity is excluded from CRC, as covered by EU ETS. It is therefore consistent that the electricity generated is not credited within CRC.

Where a CRC participant owns a pumped storage hydro generating station, large RO-exempt hydro station, EU ETS installation or nuclear power station they could potentially accrue a sufficient number of electricity credits to cover the emissions of their entire organisation. In this scenario, the participant would have a zero CRC footprint and would therefore have no scope for improvement within CRC, irrespective of their actual energy efficiency practice. This is inconsistent with the main rationale for CRC. Government therefore seeks to eliminate this anomaly by proposing that all electricity exported by pumped storage hydro generating stations, large RO-exempt hydro stations, EU ETS installations or nuclear power stations will not be eligible to claim electricity credits under CRC.

As indicated in section 9.4.2, we believe that electricity used by pumped storage hydro generating stations, large RO-exempt hydro station, EU ETS installations or nuclear power station for the purpose of electricity generation will be exempt from CRC, as this electricity is consumed to enable them to fulfil their generator license.

9.4.3 Combined Heat and Power

Government proposes that CHP plants are treated exactly like other electricity generation plants, with the additional point that heat is considered zero rated in CRC. This means whether the heat is used on site or exported to a third party there will be no requirement to surrender CRC allowances for its use.

In line with other electricity generation processes, allowances will be surrendered by the operator of the CHP plant (i.e. the counter party to the energy supply contract) for the primary fuel, as necessary. (No allowances will be required if the CHP installation is an EU ETS installation or where there are no emissions factors – e.g. for biomass). Electricity generated will be treated in line with the general rules, including the treatment of ROCs.

The exclusion on domestic properties (section 2.8) may be of relevance to certain CHP operators, including Local Authorities.

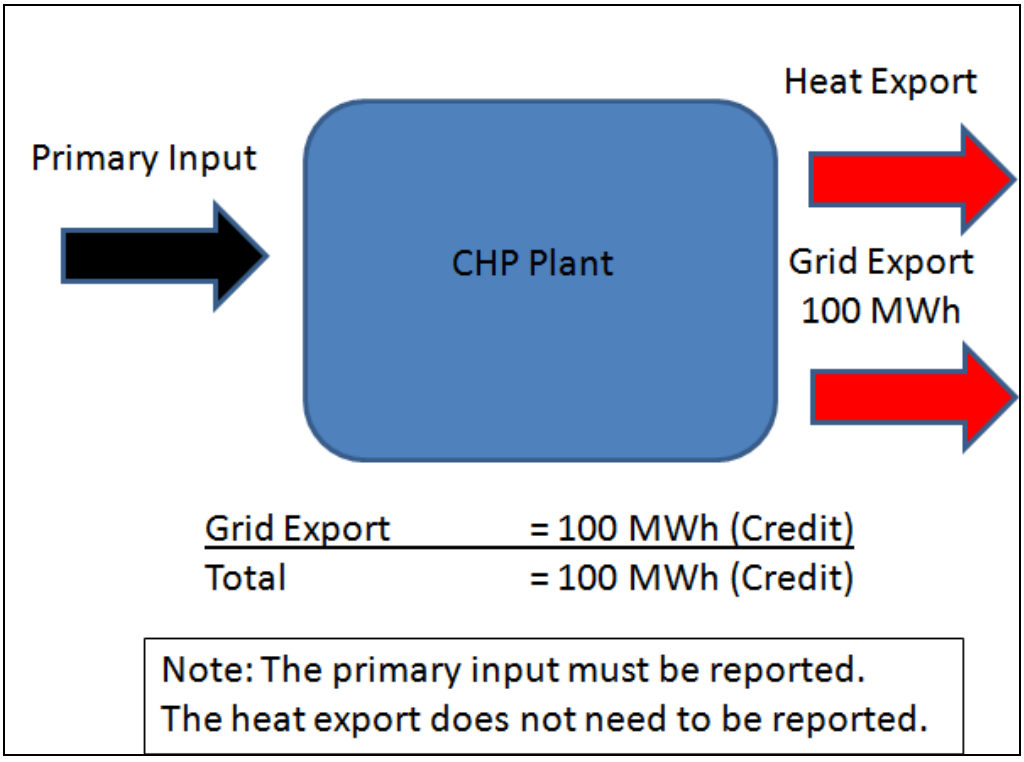

Figure 9.2: Non-EU ETS CHP Plant

The zero rating of heat use will provide an incentive for CRC participants to import heat and so increase the size of the heat market in the UK, resulting in an increased potential for CHP and the use of surplus heat (surplus heat is a by-product from power generation and some industrial processes). The zero rating of heat will mean that all heat use is treated the same for reporting purposes, removing the need for the heat customer to keep documentary evidence on the source of the heat, for instance whether it was generated by burning biomass or gas (as any benefits of more efficient generation would have accrued to the generator).

9.4.4 Renewables

As stated in the Government Response to the CRC policy design consultation, Government is proposing to handle electricity generation from renewable sources in one of two ways in the CRC depending on whether or not Renewables Obligation Certificates (ROCs) are issued.

For on-site renewable electricity, where ROCs are not issued and the electricity is used by the organisation itself, this energy is counted as having zero emissions. If this electricity is then exported, the participant can claim an energy credit at the grid average emission rate.

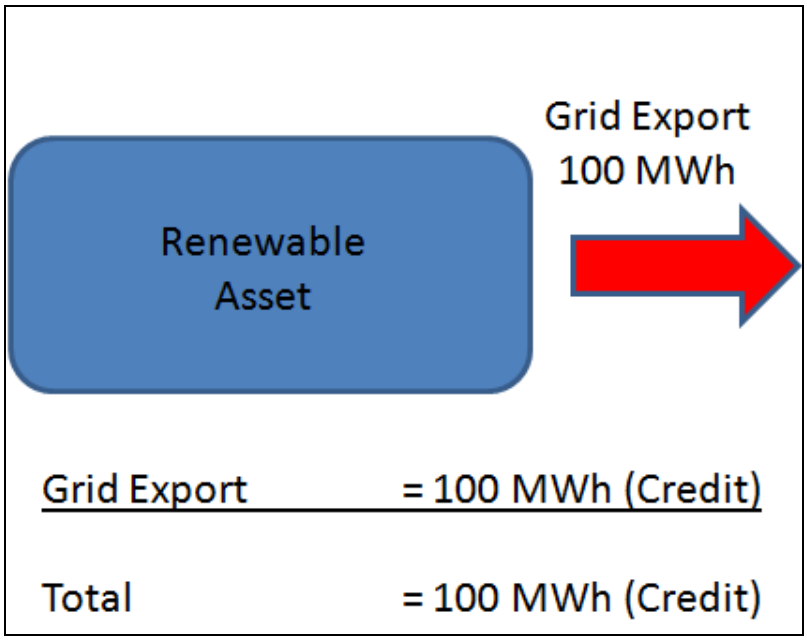

Figure 9.3: Renewables Generators (where ROCs are not issued)

Where ROCs are issued, the renewable electricity generated must be reported as electricity consumption and must be counted at the grid average emission factor. The export of this electricity will similarly be credited at the grid average emission factor, in practice netting off the effect of ROC-related electricity deemed as energy consumption, using the grid average emission factor.

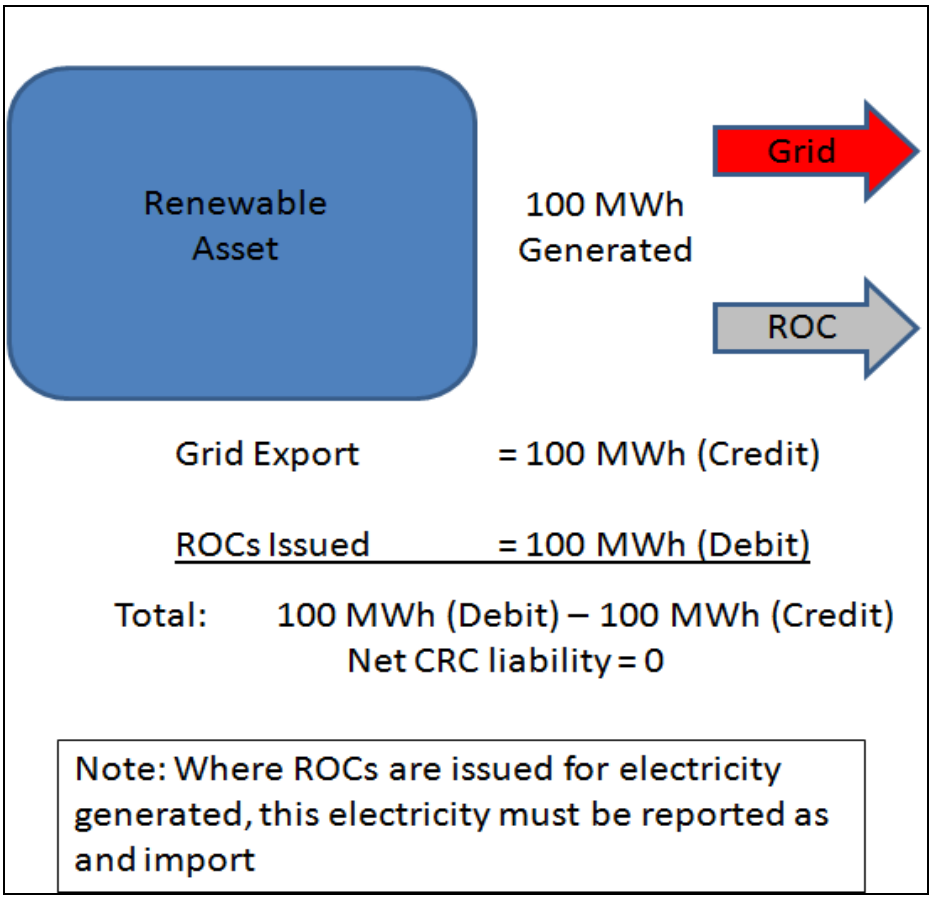

Figure 9.4: Renewable Generators (where ROCs are issued)

For CRC purposes it is irrelevant whether the ROC has been issued and subsequently retired (i.e. cancelled). What triggers the obligation to report renewable electricity at grid average emission factor is the fact that a ROC has been issued in relation to that quantity of renewable electricity. Government considers that RO is the appropriate financial incentive to drive investment in renewables. Furthermore, the issuing of a ROC, will enable a supplier to satisfy its Renewable Obligation, and hence its contribution to reducing the carbon intensity of our electricity supply.

9.4.5 Energy from Waste

Government proposes that the treatment and obligations on Energy from Waste plants will follow the same general approach as all other electricity generators. Where waste is used as an input into an energy generation process a participant will be required to report the quantity of waste used, using the waste emissions factor listed in the table (see section 9.3). Electricity generated from this process, which is used onsite, does not need to be reported under CRC. Where a participant exports this electricity generated to the grid or to other users, it will be entitled to claim an electricity credit corresponding to the amount of the electricity exported. The credit is calculated using the grid average emissions factor.

In circumstances where waste is used as an input into any waste plant eligible for RO, any electricity for which ROCs have been issued must be considered and reported in the same way as for other installations where ROCS are issued.

Question 48. **Does Government's proposal around the treatment of energy generation lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

9.5 Record keeping

Participants should monitor and collate their energy use throughout the year. This will make it easier to report their emissions at the end of the year and will help participants to identify opportunities for improving energy efficiency and achieve energy savings. Article 44 and Schedule 14 of the Draft Order detail the requirements for record keeping. Generally, participants must keep sufficient records to support any information provided to the Administrators and ensure that records are up to date and easy to follow, to help the Administrators to carry out an effective audit. The records kept by participants will take the form of an 'evidence pack' and must be kept for periods specified in Part 2 of Schedule 14.

9.6 Evidence pack

Participants will have to submit their evidence pack to the scheme Administrators should they be selected for audit under the risk-based audit regime. The evidence pack must be signed by a Director of the organisation, as a means of ensuring records are accurately and carefully maintained. For auditing purposes, participants will need to be able to produce the detailed data on which the overall annual figures are based. This data should be based on 'primary' documents, (i.e. original copies of supplier annual statements, energy bills, meter readings, reading log sheets, delivery notes, invoices etc) - summary records will not be sufficient.

The scheme Administrators will carry out risk-based audits to check the accuracy of the submitted data. The nature of the information to be kept in an evidence pack depends on the type of metering used to measure the energy consumption and the confidence that the Administrators can have in that data. For example, readings from half hourly metering systems are likely to provide more confidence than the records

available for batch supplies of oil. The evidence pack requirements will provide participants with additional incentives to install Advanced Meter Reading (AMR) wherever possible, if the AMR requirements are least onerous.

9.6.1 Information to be included in the evidence pack

Schedule 14 details the type of records that must be provided in the evidence pack. Broadly, these can be split into three parts: structural records, data records and special event records.

A. Structural records

These are required to define the organisation, setting out the structure of the organisation and its various subsidiaries. These records will also include a 'source list' to identify which energy sources of emission are included in the scheme – this list will also give some indication as to which energy/fuel types are used within the organisation.

1. **For each organisation**, the same information about the organisation that was supplied at the time of registration, including the highest UK parent organisation's registered name and office, its structure (e.g. subsidiaries) and contact details; a detailed list of sites that are covered by CRC, including address and postcode; the name of the person(s) designated with responsibility for managing the collation of data and submission of the organisation's annual emissions; and copies of any written procedures that cover the data collection, handling, aggregation from site to organisational level, transfer and error checking.

2. **For each source**, the identity of the personnel with day-to-day responsibility for compliance with the Order, and details of the procedures followed in relation to data collection and handling.

3. **For electricity and gas supplies from utility companies**, details of the type of source (e.g. electricity, gas), a record of the meter type (e.g. half hourly settled on the half hourly market), the official meter identifier, location, and whether that meter constitutes a Core source and the period of the relevant supply.

4. **For bulk supplies** (e.g. oil) a record of all supplies that have been purchased or delivered. Also, the exact type of fuel being used (e.g. gas oil, medium fuel oil etc.) and where a blend of fuels has been consumed, a record of those blends. These records should be verifiable by supplier's invoices or other suitable methods of primary data.

B. Data records

These are required to show the annual consumption of energy. These records should enable the verification of the accuracy of the energy data provided. Some examples of data records which could be included in the evidence are:

- Copies of the annual statement of electricity and gas consumption
- Copies of invoices for each energy stream, e.g. electricity, gas, fuel oil, wood pellets.

Where half hourly or AMR electricity metering systems are not available, utility company meter readings (meter profile classes 5 – 8) should be the principal source of data, but if own meter readings are used instead of utility company readings, verifiable records of such readings should be included. In this situation evidence of suitable correlation between own meter readings and utility company readings should be included in the pack. A similar process is suggested for all other energy streams.

These records should also include information to support any exemption and the evidence of the applicable percentage being met.

Data records should also include evidence of any electricity credits claimed and the total number of ROCs issued (with related quantity of electricity covered by the certificate).

C. Special Event Records

These should be maintained to keep an audit trail of unusual events e.g. the actions taken following a meter failure. It is important to keep records of events that may influence the accuracy of the audit trail. Three common examples are:

1. A change of energy supplier. This will mean that data from two sets of energy bills may be required to establish the annual consumption. The date of the changeover, together with the identity of the old and new supplier should be kept in the evidence pack.

2. A meter failure. If a meter failure occurs the dates for the last acceptable reading before the breakdown and the first after it has been repaired or replaced should be recorded. A reasonable estimate of unmetered energy should be made with a written justification being kept in the evidence pack.

3. A change in company structure. Each organisation should keep a record of any Designated Change during a data collection year.

Question 49. **Does the wording in the Draft Order (Schedule 14) around the records to be maintained in the evidence pack lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

9.7 Statement of Electricity and Gas Consumption from Energy Suppliers

In order to assist participants with the calculation of their emissions, Government will introduce new obligations on energy suppliers to provide information to participants and the Administrators around their energy consumption. These can be grouped into two categories: the obligation to provide the scheme Administrators with information about participants' energy use to determine qualification, covered in Articles 55 and 56 of the Draft Order and the obligation to provide participants with an annual statement of supply, covered in Article 57 and Schedule 19.

9.7.1 Qualification information

Energy suppliers have an important role to play in assisting the Administrators, as they hold information in relation to the relevant energy use of their customers. The Draft Order imposes an obligation on suppliers and distributors to provide information to the Administrators for the purpose of identifying potential CRC participants. The Administrators may require electricity distributors and suppliers to provide it with information relating to any meter for which it has responsibility and in relation to that meter, identify the following:

- The customer,
- Premises in which the meter is located,
- Meter identification number,
- The address at which the supplier bills that customer for that supply, and.
- The quantity of electricity supplied to that customer in relation to that meter.

The Administrators must notify the supplier in writing where it requires this information.

Further, the Administrators may require suppliers to provide this information to their customers.

9.7.2 Supplier statement to participants

Government is mindful of the administrative burdens that CRC will create for participants and will therefore oblige licensed suppliers to produce an annual statement of consumption to assist CRC participants with qualification, reporting and compliance procedures thus reducing the administrative burden of compliance. Government will continue working with energy suppliers to ensure the preparation of annual statement is developed in the least burdensome way and by using as much as possible existing suppliers data and procedures.

Article 57 (and related Schedule19 of the Draft Order) imposes a legal obligation on suppliers to produce a statement of electricity and gas consumption within six weeks of the end of the scheme year, should such a statement be requested by a CRC participant and covering the total amount of electricity or gas (or both) that the supplier has supplied to the participant during a specific scheme year.

A participant must request a statement in writing (unless agreed otherwise) and by the last working day of February of the relevant reporting year. Importantly, it will be up to the CRC organisation to contact the supplier to request a statement and identify which contract and meters the statement is required for. Suppliers would not be required to produce such a statement if they are not requested to do so.

The statement would relate only to the supply of electricity and gas. Emissions from electricity and gas will account for the largest proportion of a participant's total emissions. Obliging suppliers to produce statements in relation to other fuels would be substantially more difficult and create an undue administrative burden on suppliers.

Where a participant has changed suppliers during the course of an emissions year, it will have to request a separate statement from each supplier. Suppliers will be required to provide a statement covering only the period that they supplied the customer.

The statement must indicate:

- the total amount of electricity or gas (or both) supplied to the participant during the reporting year in respect to each supply contract identified by the participant.

In addition, the statement may indicate:

- the amount of electricity or gas (or both) that the supplier has supplied to the participant at any premises or any combination of premises, or where the quantity of supply has been ascertained by any pseudo half hourly meter.
- identification numbers.
- whether consumption figures are actual or estimates.

Suppliers certificates will be taken as correct in respect of the meters identified and participants will not be subject to retrospective penalties if errors on the part of the supplier are subsequently found.

9.8 The Registry

As stated in the June 2007 consultation on scheme design, each participant within CRC will have a registry account. This is intended to be a simple, user-friendly and secure online system that allows participants to record and keep track of the allowances purchased in the fixed price sale/auction; purchased through the safety valve; or traded in the secondary market. The CRC registry will also serve as the reporting tool for the scheme, where participants will record their annual carbon emissions and surrender the corresponding number of allowances. The registry will be designed to be as easy to use as possible, calculating annual carbon emissions from participants' energy/fuel use data. It will also be used to report data on any additional metrics (i.e. the early action data and the organisation's turnover or revenue expenditure figures) that may be used in the calculation of participants' Performance League Table position.

The registry will hold different types of account for categories of user and some registry functions will be available only to certain categories of users.

- Compliance account – These accounts will be provided only to direct CRC scheme participants and will include the reporting functionality, as well as the trading functionality
- Other trading account (third party account) – such as for charities, traders and brokers who are not direct CRC participants but who may wish to trade allowances in the secondary market. The accounts will not provide the reporting functionality.
- Administrator account – to open and close accounts and carry out administrative functions such as holding cancelled allowances.

Part 8 of the Draft Order requires the establishment of a registry and its high level requirements. These include the provision of an online facility with a 'secure area' for each participant or account holder. The Administrators will provide certain information for each account holder on their 'secure area', including the number of allowances in their account and a summary of trades and cancellation of allowances over the previous five years. For CRC participants, their emissions during the last reporting year must be shown, as well as the number of valid allowances in a participant's account between the end of a compliance year and the reporting deadline. Part 8 also covers requirements around registry access and security.

Government has decided to include a notice board system ('trading platform') whereby organisations will be able to advertise sales or purchase requirements within the registry to facilitate trades between participants and/or non participants. The use of this 'notice board' to negotiate the purchase and sale of allowances will be optional and has been included to assist participants - who will be free to negotiate trades in any way they choose.

Question 50. **Does the wording in the Draft Order (Part 8) around the creation of the registry system lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

10 Audit

10.1 The roles of the Administrators

The Environment Agency (EA), Scottish Environmental Protection Agency (SEPA) and the Department of Environment in Northern Ireland are appointed as the joint scheme Administrators (Article 4 of the Draft Order). In practice, the basic administrative functions will be carried out by the EA for the whole of the UK and scheme regulation will be carried out by the relevant body in each part of the UK.

The general powers of the Administrators are covered in Part 6 of the Draft Order, including powers relating to audit, inspection and enforcement. Part 7 covers functions in relation to allowances and trading and must be performed by the EA only. This includes the requirement to establish and maintain accounts, identify each allowance and update accounts where it is notified of any trade or transfer. Part 7 also gives powers to the Administrators to cancel allowances and block the transfer of allowances and to suspend an account holder's access and close accounts.

Part 8 requires the Administrators to establish and maintain a registry and covers responsibilities for providing the necessary security and access to the registry. It also requires the Administrators to provide certain specified information to each account holder or participant and is relevant to the EA only. The Secretary of State, the Welsh Ministers and the Scottish Ministers are appointed as additional Administrators to ensure the fair application of the scheme to the Environment Agency and SEPA, where those bodies are themselves participants (Article 92).

Question 51. **Does the wording in the Draft Order (Parts 6-9) around the respective roles of the Administrators lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

10.2 Audit

Government originally proposed a 5% sample audit, based on findings in CCAs and Integrated Pollution Prevention and Control (IPPC) where the standard of reporting is generally high. However, as a result of the 2006 consultation, a significant number of respondents urged a higher level, at least in the early stages of the scheme, to generate confidence in the scheme's integrity. As a result of further consideration Government has therefore decided that around 20% of organisations should be audited every year. This remains substantially lighter touch than the UK ETS(which

required 100% third party verification of all organisations) and the EU ETS (which requires 100% third party verification of all sites).

Government will consider the appropriate level of audits for the scheme's subsequent capped phase in light of the experience gained during the Introductory Phase. If the Administrators find high levels of compliance and a good standard of reporting, then the percentage of CRC organisations audited every year may be reduced in the capped phases.

All audits will include a desk-based assessment of the evidence pack supporting the reported data, with some desk based assessments supported by a site visit. Audits could occur at any point in the year. Before the first year of the scheme the Administrators will issue guidance for participants in order for them to understand the compliance requirements of the scheme, and to establish best practice for establishing and maintaining an evidence pack.

The Administrators are working to develop a risk assessment framework for selecting organisations for audit. Preliminary risk assessment framework criteria being considered include:

- **Organisational complexity** – where the CRC participant comprises a significant number of subsidiaries, the Administrators might want to assess that the organisation structure has been established correctly and that reporting includes all the relevant parts of the organisation.

- **Annual performance** – where the participant's performance has registered a significant movement against previous years, the Administrators might want to assess the level of energy usage.

- **Historic emissions averages** – where the participant's structure has significantly changed as a result of mergers or acquisitions, which resulted in significant baseline changes, the Administrators might want to verify that organisational changes have been reported correctly.

- **Frequency** – where the participant has never been audited before, or has not been audited for a number of years.

- **Performance in the league table** - It is proposed that organisations could be selected for audit depending on their position in the Performance League Table, especially in those instances where an organisation's position in the league table has substantially changed and as a consequence the value of its revenue recycling payment has changed considerably.

- **Compliance record** - It is proposed that organisations could be selected for audit based on their compliance record on registration, sale/auction, reporting and surrendering of allowance requirements. For example, a potential factor which

could be taken into account when selecting an organisation for audit, is whether it has self-registered for the scheme or has only registered after repeated requests to do so from the scheme Administrators. If a participant has a poor record of compliance, the Administrators would ensure the participant is audited again.

- **Level of estimates** – where it emerges that the proportion of emissions which have been estimated by a participant are fairly high, the Administrators might want to audit the participant's records in order to ensure compliance and to encourage best practice.

- **Full exemption** – where an organisation has claimed the full exemption from CRC, the Administrators might want to audit the set of baseline data that constitute the grounds for the exemption.

Audits will be performed by the appropriate Administrator responsible for the region where the head office of the participant is located. The Administrators will work together to ensure cross-border co-operation in auditing organisations with sites across different parts of the UK.

The Draft Order deals with audit in Article 63 as part of the functions that the Administrators are required to perform. The risk-based approach is not dealt with in the Draft Order as this is a matter of policy guidance between Government, and the Administrators.

Question 52. **Does the wording in the Draft Order (Article 63) around the audit process lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

11 Enforcement

11.1 Overview

CRC is intended to be as 'light touch' a scheme as possible and relies on participants' self-certification of energy use. Strong penalties are therefore required to deter abuse and secure compliance. The enforcement procedures, civil penalties and criminal offences are dealt with in Articles 71 and 93-94, and Schedules 22, 25 and 26 of the Draft Order.

Government proposes CRC will rely almost entirely on civil penalties to guarantee enforcement of the scheme. The proposed civil penalties involve a combination of the following components: fixed fines, variable fines, publication of non-compliance and, where necessary, blocking the trading account of participants. Government believes these penalties will be efficient in ensuring compliance with the scheme, because they leverage financial and reputational drivers in the same way as the scheme itself. The proposed penalties are in line with the Macrory[38] 'Six Penalties Principles', as they have been designed to eliminate any financial gain or benefit from non-compliance; to be proportionate to the nature of the offence and the harm caused; to deter future non-compliance; and to be based on transparent enforcement procedures.

The penalties proposed have also been designed to reflect, as far as possible in the context of an emissions trading scheme, the approach to penalties adopted by the government in the Regulatory Enforcement and Sanctions Act 2008 (RES), so as to achieve and incentivise compliance with each of the key obligations of the scheme.

CRC is the first scheme of its kind. The only comparable existing scheme is the EU ETS. However, the obligations on participants under EU ETS are different from those under CRC and therefore the enforcement mechanisms are not necessarily applicable to CRC. Government has considered relevant elements of the EU ETS penalties and has developed a combination of civil penalties that are fit for the specific purpose of CRC enforcement. In addition to civil penalties, Government proposes a limited number of criminal offences, to be provided for only in exceptional circumstances to punish reckless, false and misleading behaviour, or non-compliance with enforcement and obstruction to the exercise of the Administrators' functions.

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[38] "Regulatory Justice: Making Sanctions Effective" Macrory, November 2006 - http://www.berr.gov.uk/files/file44593.pdf

11.2 The Civil Penalties

The proposed civil penalties have been designed to be proportionate to the offence and fair as possible, taking into consideration the wide range of organisations that will be included in CRC. Government therefore proposes to relate the penalty to measures of carbon dioxide (CO_2) whenever possible. In determining the level of penalties, proportional to a participant's CO_2 emissions, Government has taken the smallest participant with 6,000MWh of half hourly electricity to have emissions of 4,000tCO_2. This is based on the assumption used in the RIA that for a typical participant, electricity use makes up two thirds of energy use, and gas the remaining third.

The level of the fines proposed has been calculated in order to ensure that the cost of non-compliance is higher than the costs of compliance, in order to incentivise the correct behaviour. The proposed framework for penalties has been designed to be transparent and practical, to ensure that it is clear to participants when a penalty is incurred, how it is set and calculated, and it is easy to implement for the administrator.

Penalties will be applied where a participant fails to comply with any of their key obligations at any time within CRC. The key obligations are registration; submission of a Footprint Report; submission of an Annual Report; compliance with the performance commitment (holding and cancelling sufficient allowances); reporting correctly; and keeping records. Penalties will be applied to energy suppliers for persistent failure to provide statements to customers or failure to provide information to the Administrators and participants for the purpose of qualification. Government also proposes the application of a penalty for those organisations that do not qualify for the scheme, but are required to contact the Administrators and submit information and fail to do so.

In addition to the specific civil penalties proposed, the Draft Order (article 69) provides for a general power for the Administrators to issue enforcement notices when it considers that a participant is contravening one of the key requirements of the Order.

The proposed civil penalties are summarised in table 11.1 below and are then outlined in details in the subsequent sections.

Non-compliance	Penalties
Failure to register	• Immediate fine of £5000, imposed for failure to register by the deadline • Further fine of £500 per working day for each subsequent working day of delay until last working day of July (the next reporting deadline) • Publication of non-compliance
Failure to Disclose Information	• Where an organisation with a Half Hourly Meter (HHM) that does not meet the qualifying threshold fails to make an information disclosure, a one off fine of £1,000
Failure to provide Footprint Report	• Immediate fine of £5000, for failure to provide a Footprint Report by the reporting deadline • Further fine of £0.05 per tonne of carbon dioxide (tCO_2) per working day for each subsequent day of delay up to a maximum of 40 working days. Total accumulated daily rate fine is doubled after 40 working days • Publication of non-compliance
Failure to provide Annual Report	• Immediate fine of £5000, for failure to provide a Annual Report by the reporting deadline • Further fine of £0.05 per tonne of carbon dioxide (tCO_2) per working day for each subsequent day of delay up to a maximum of 40 working days. Total accumulated daily rate fine and total emissions are doubled after 40 working days • Publication of non-compliance • Administrators will block the transfer of all allowances out of the participant's registry account until report is received • Bottom ranking on the Performance League Table
Incorrect Reporting	• Fine of £40 for each tCO_2 of emissions incorrectly reported, to be applied wherever there is a margin of error greater than 5% • Publication of non-compliance
Failure to comply with the performance commitment	• Must obtain and cancel the outstanding balance of allowances as soon as possible • Fine of £40/tCO_2 in respect of each allowance that should have been obtained and cancelled • Publication of non-compliance • Administrators will block the transfer of all allowances out of the participant's registry account until all necessary allowances are cancelled
Failure to keep adequate records	• Fine of £5 per tCO_2 of total emissions reported in the most recent annual report • Publication of non-compliance

Table 11.1: Civil Penalties

11.2.1 Failure to register

Government proposes that the penalty should have a fixed component and a variable component. Participants that do not register by the required date (30 September 2010 for the Introductory Phase) will be subject to a fixed fine of £5,000. This figure was chosen on the basis of an estimated energy bill: independent studies indicated that the smallest CRC participant is likely to pay an energy bill in the range of £1million per year at current energy prices[39]. An immediate fixed fine of £5,000, therefore, represents a 0.5% of the estimated lowest energy bill for a qualifying participant. The variable component of the fine would consist of a daily increment of £500 per working day of delay. This component is intended to incentivise organisations to comply as soon as possible with the registration requirement.

The variable component would be applied up to the last working day prior to the reporting deadline , which is the date on which the Footprint Report must be submitted. At that point, qualifying organisations must be registered to be able to submit a report. If they have not done so, the reporting penalty would be incurred. Discontinuing the daily fine for registration once a participant is liable for the reporting penalty will prevent fines from accumulating and becoming disproportionate. This penalty can be found at Paragraph 2-4 of Schedule 22 of the Draft Order.

The Administrators will also publish on the website the name of any participant failing to comply with this obligation and the details of the grounds for application of the publication penalty.

Question 53. **Do you agree with the level and type of penalties imposed for failure to register?**

Yes / No / Don't know

If no, please explain reasons

11.2.2 Failure to Disclose Information

Organisations that have a HHM but did not consume at least 6,000MWh in 2008 must disclose information about their HHM electricity consumption to the Administrators to ensure that they can distinguish between qualifying participants and non-participants. Failure to disclose information represents a lesser offence

[39]"Greenhouse Gas Policy Evaluation and Appraisal in Government Departments" Defra, December 2008 - http://www.defra.gov.uk/environment/climatechange/uk/ukccp/pdf/greengas-policyevaluation.pdf

compared to that of failure to register, given that these organisations are not required to participate in the scheme or expected to fulfil any further obligations. Furthermore, organisations at risk of incurring this penalty have lower levels of electricity consumption and are likely to be smaller. Government therefore believes that a fixed penalty of £1000 would be sufficient to incentivise the correct behaviour while remaining proportionate to the offence and the organisation's expected capacity to pay. This penalty can be found at Paragraphs 23-25 of Schedule 22 of the Draft Order

Question 54. **Do you agree with the level and type of penalty imposed for failure to disclose information?**

Yes / No / Don't know

If no, please explain reasons

11.2.3 Failure to provide a Footprint Report

Each participant in the scheme must submit a Footprint Report to the Administrators once per phase by the last working day of July. Government proposes that participants that do not submit a report by the deadline will incur an immediate fixed fine of £5,000. As with the penalty for registration, the level of the fine is based on the estimated energy bill for the smallest qualifying participant in CRC of £1million, at 0.5% of the energy bill.

In addition to the fixed fine, Government also proposes a variable element to deter further delay. This penalty would be £0.05 per tCO_2 per working day of delay in submitting the report.

A 40 day limit to the daily fine is linked to the point after which the Administrators can access the participant's premises, using the power of inspection provisions (see Article 68 of the Draft Order) to secure the information it requires. Such a cut-off ensures that necessary information can be obtained.

Should a participant submit a report within the 40 days, it will be subject to the fixed fine and the daily rate, for the number of days of delay. However, given that total failure to submit a report represents a more serious infringement than late submission, Government proposes that an organisation that has failed to submit a report at the end of 40 days will be subject to the fixed fine, and the total accumulated daily rate penalty will be doubled.

The proposed multiplier of £0.05/tCO_2 ensures that the maximum fine for a CRC participant with the smallest possible footprint is £21,000, or approximately 2% of

their energy bill at current prices. The sum for larger emitters may be substantially higher but will remain proportionally similar to around 2% of their energy bill at current energy prices.

In all cases the Administrators will publish on the website the name of any participant failing to submit a Footprint Report.

The penalty for failure to provide a Footprint Report can be found at Paragraphs 5-7 of Schedule 22 of the Draft Order.

Question 55. **Do you agree with the level and type of penalties imposed for failure to provide a footprint report?**

Yes / No / Don't know

If no, please explain reasons

11.2.4 Failure to provide an Annual Report

This penalty is designed to mirror the Footprint Report penalty. Therefore, where a participant fails to provide an Annual Report by the reporting deadline (the last working day of July), a fixed penalty of £5,000 would be imposed. In addition to the fixed fine, Government proposes a variable element consistent with that outlined for submitting a late Footprint Report, given the similarity in the nature and relative seriousness of these offences. Details of the failure will also be published on the website.

Should a participant submit a report within the 40 days, it will be subject to the fixed fine and the daily rate, for the number of days of delay. However, given that total failure to submit a report represents a more serious infringement than late submission, Government proposes that an organisation that has failed to submit a report at the end of 40 days will be subject to the fixed fine, and the total accumulated daily rate penalty will be doubled. The total emissions are deemed to be equal to the emissions reported for the most recent scheme year, and will be multiplied by two.

Further, organisations that fail to provide an annual report by the 40 days cut off point will automatically be placed at the bottom of the Performance League Table. As a consequence, the participant will also be subject to a lower recycling payment as a result of appearing at the bottom of the league table.

Given that a participant's compliance with the performance commitment can be determined only on the basis of information provided in the Annual Report, the

Administrators will block the trading account of the participant failing to comply with this reporting obligation. This is to ensure that a participant would not profit by selling allowances that it may, in fact, be required to cancel.

These penalties for failure to provide an Annual Report are drafted in Paragraphs 8-11 of Schedule 22 of the Draft Order.

Question 56. **Do you agree with the level and type of penalties imposed for failure to provide an annual report?**

Yes / No / Don't know

If no, please explain reasons

Question 57. **Do you agree with the consequence of depriving participants of the revenue recycling payment for that year?**

Yes / No / Don't know

If no, please explains reasons

11.2.5 Incorrect Reporting

This penalty applies in respect of the Footprint and Annual Reports. The submission of incorrect information has the potential to unfairly advantage a participant relative to other participants, particularly where emissions reported are less than the actual emissions of an organisation, as revenue is recycled back on the basis of participants' relative performance.

The penalty for incorrect reporting can potentially cumulate with the penalty for failure to comply with the performance commitment (described below). This is because a participant that has incorrectly calculated its emissions is unlikely to hold or cancel the correct number of allowances. Where the participant is liable for not complying with these two key requirements, both penalties will be applied.

Government proposes a fine of £40 for each tCO_2 emissions that is incorrectly reported. This penalty would therefore accumulate incrementally for each tonne of CO_2 not correctly reported, outside the 5% acceptable margin of error. The Administrators will also publish on the website the name of participants found to be in breach of the requirement to report correctly via the CRC online system. Penalties for incorrect reporting can be found in Paragraphs 12-14 of Schedule 22 of the Draft Order.

Government is considering how to deal with those instances where a participant has detected an error in the report already submitted and has voluntary notified the Administrators. Government wishes to encourage accurate reporting, and so is considering whether the penalty for incorrect reporting should be applied or mitigated in these circumstances. Government will assess whether to deal with these circumstances by issuing specific directions to the Administrators; or whether to provide for a different lower penalty.

Question 58. **Do you agree with the level and type of penalties imposed for incorrect reporting**

Yes / No / Don't know

If no, please explain reasons

11.2.6 Failure to comply with the performance commitment

Government proposes a fine proportional to the degree to which participants fail to comply with the requirement to hold and cancel sufficient allowances to cover their emissions. The Administrators will require the participant to obtain and cancel as many as allowances as required, up to the level of its actual emissions, without delay. In addition, the Administrators will impose a fine of £40 per tCO2 not covered by cancelled allowances. Details of the failure will also be published on the website.

The Administrators will block transfer of allowances out of the participant's registry account in order to ensure that any allowances in the account are not able to be sold, until the required amount of allowances have been cancelled.

The penalties for failure to comply with the performance commitment are drafted in Paragraphs 15-19 of Schedule 22 of the Draft Order.

Question 59. **Do you agree with the level and type of penalties imposed for failure to comply with the performance commitment?**

Yes / No / Don't know

If no, please explain reasons

11.2.7 Failure to keep adequate records

Government proposes to impose a penalty on participants who do not produce adequate records when requested. Once the Administrators establishes that the participants have failed to keep adequate records, they will issue an enforcement notice advising the participant of the relevant failure, and instruct him on how to remedy the failure within an assigned deadline.

In the event of non-compliance with the enforcement notice, Government proposes a fine of £5 / tCO_2 according to the total emissions recorded in the participants' most recent report. As with previous penalties described, the per tCO_2 denominator ensures the penalty is proportionate and the maximum possible fine (£20,000) for the participant with the smallest footprint is equivalent to around 2% of an estimated energy bill of £1million.

Government also proposes that those who do not comply with the obligation to keep an evidence pack will have their details published by the Administrators. The above penalties for failure to keep adequate records refer to Paragraphs 20-22 of Schedule 22 of the Draft Order.

Question 60. **Do you agree with the level and type of penalties imposed for failure to keep adequate records?**

Yes / No / Don't know

If no, please explain reasons

11.2.8 Failure to comply with civil penalties

Should a participant fail to comply with the imposition of a civil penalty, Government proposes that the Administrators can pursue the matter via the civil courts.

A financial penalty must be paid within 20 working days from the date of notification of the decision to impose a penalty. Payment is deemed to have taken place when the Administrators receive the full sum due. In case the Administrators do not receive payment by the deadline, they may increase the penalty by a daily rate and recover the amount due as a civil debt.

The procedure for failure to comply with civil penalties is described in Part 2 of Schedule 22 of the Draft Order.

Question 61. **Do you agree with the procedure for dealing with failure to comply with civil penalties?**

Yes / No / Don't know

If no, please explain reasons

11.3 Supplier's Obligations

The CRC Order introduces two separate obligations on energy suppliers (see section 9.7 of this consultation document). The first one, to supply information to the Administrators for qualification purposes, will be enforced by the Administrators. The second, to supply information to customers in the form of an annual statement of consumption, will be enforced by the Gas and Electricity Markets Authority[40] (the Authority). Enforcement of the two energy supplier's obligations is illustrated below and is discussed in more detail in the following sections.

Non-compliance	Penalty
Failure by a supplier to provide information to the Administrators; and Repeated failure to provide customers with information upon request of the Administrators	• Administrators advise the supplier by an enforcement notice of the relevant failure, requesting the supplier to comply within a set deadline • If the supplier fails to comply with the notice, a fine of £500,000 or 0.5% of turnover – whichever is the lowest - is imposed • Publication of non-compliance
Persistent failure by suppliers to provide customers with a statement of consumption	• The CRC Draft Order does not provide for any penalty. The standard enforcement procedure adopted by the Authority is applied. The Authority will have the power to impose a penalty of up to 10% of the turnover of a licensed energy suppliers, in line with the Authority's enforcement regime

Table 11.2: Supplier's Obligation Penalties

11.3.1 Failure by a supplier to provide information on qualification

As outlined in section 9.7.1 of this consultation document, energy suppliers have an obligation to supply information to the Administrators for the purpose of identifying

[40] Ofgem in GB. In Northern Ireland this is still to be determined.

participants. Paragraphs 26-28 of Schedule 22 of the Draft Order outlines the proposed penalty for non-compliance with this particular obligation.

If a supplier fails to provide this information when requested, the Administrators would serve an enforcement notice in the first instance, setting a deadline by which the supplier must provide the requested information.

If the supplier fails to comply, Government proposes that the Administrators would impose a penalty consisting of two parts: a fixed fine of £500,000 or a fine equal to 0.5% of the supplier's turnover, whichever is the lowest. In addition, the Administrators would publish on the website the name of the supplier, which will provide a reputational incentive for suppliers to comply with this obligation. The fine is substantial as the information provided by suppliers is vital for implementation of the scheme, and it takes into account of the different size of licensed suppliers operating in the UK.

In addition, the Administrators may require suppliers to provide customers with this information, to assist customers to assess qualification. Where the supplier does not comply with the request on a significant number of occasions, the Administrators may issue an enforcement notice, instructing the supplier to provide the information within a specific deadline. Government proposes the same penalty outlined above for suppliers that do not comply with the requirements of the enforcement notice.

For the purpose of determining qualification for the Introductory Phase only, the Administrators will use the powers set out in the Climate Change Act and require electricity suppliers and distributers to supply information for the purpose of qualification. The Act provides for a slightly different procedure from the one in the CRC Order, as an enforcement notice is issued only in those instances where the supplier has not provided the information requested within a period of 28 days. Failure to comply with an enforcement notice is a criminal offence under the Act.

11.3.2 Failure by suppliers to provide statements to customers

Energy suppliers have a key role to play in supporting participants in gathering data on energy consumption. As outlined in section 9.7.2 of this consultation, where a participant requests it within a particular deadline, the energy supplier must provide that participant with a statement, indicating the total amount of electricity or gas (or both, depending on the participant's request) that has been supplied to that organisation during the course of the reporting year, through any particular metering system.

Government proposes that a civil penalty will be applied only where there is persistent failure to provide customers with this service, for example when the same supplier fails to provide a significant number of customers with the statement upon request. Government will issue guidance to the Authority outlining what should be considered a 'persistent' failure. Government considers that other failures can be

dealt with as a matter of contractual agreement between the customer and its supplier. Only when the Gas and Electricity Markets Authority [41] ascertains that there has been a persistent failure to provide customers with this service, will it undertake enforcement action, which may also result in the imposition of a financial penalty.

Government proposes that the obligation to provide customers in CRC with an annual statement of consumption should be included in the CRC Draft Order and also as a condition in the supplier licence. The Authority will consult on whether to introduce this obligation as a licence condition in accordance with section 23 of the Gas Act 1986 and section 11 of the Electricity Act 1989.

As Government proposes to incorporate the CRC obligation among the licence conditions, the CRC Draft Order does not currently provide for an enforcement procedure nor set a financial penalty for failure to comply with this obligation. Under this proposal, the Authority, in accordance with its powers under sections 28 to 30F of the Gas Act 1986 and sections 25 to 28 of the Electricity Act 1989, can enforce this obligation and could impose a financial penalty of up to 10% of the turnover of a licensed energy supplier.

Question 62. **Do you agree with the proposed enforcement process for this obligation?**

Yes / No / Don't know

If no, please explain reasons

11.4 Appeals Process

Government proposes that a participant, or third parties, subject to a decision of the Administrators, may appeal against that decision. Government proposes that not all the decisions of the Administrators would be subject to the right of appeal, in order to avoid speculative appeals that would undermine the robustness and management of the scheme. Government proposes that appeals are appropriate against the following decisions of the Administrators:

- imposition of a penalty (Schedule 22);
- refusal to open, or suspend access to, a registry account;
- determination of information (Article 70), and

[41] Office of Gas and Electricity Markets (Ofgem) www.ofgem.gov.uk

- determination of the status of that organisation as a parent or a subsidiary organisation (Article 7)

- a participant's score in the league table

The appeals process is drafted in the Draft Order in Schedule 25.

Government proposes that the person that will determine the outcome of the appeal (referred to as the Determining Person) will be the Secretary of State, or the relevant Minister in the Devolved Administrations, depending on which of the Administrators issued the decision in question.

The following procedure for appeals is proposed. This procedure is consistent with existing provisions in the EU ETS and Environmental Permitting Regulations but provides for a simpler and more rapid procedure.

The appellant must notify the Determining Person (DP) of the decision to appeal within 20 working days of the relevant decision. This notification of the decision to appeal must specify the grounds on which the appeal is being made, and include a copy of the decision which is the subject of the appeal, and any relevant evidence on which the appellant intends to rely. The DP must then provide the Administrators and any interested party with a copy of the notice of appeal. The Administrators and interested parties have then 15 working days to make any representations in writing, including any related evidence. The appellant has a further 15 working days to respond.

Appeals are determined on the basis of the relevant documents and papers submitted. The appeal can be determined by hearing should either of the parties request it, and only if the determining person considers it necessary.

The DP may affirm, revoke or vary the relevant decision. If the DP considers it necessary, they may choose to hear the appeal or may appoint a third party to hear the appeal on their behalf and make recommendations to the DP on the matter. The application of the civil penalties subject to appeal will be suspended for the duration of the appeal process, until a decision is made.

Government will monitor the volume of appeals received in the first few years of the scheme entering into force. Should the volume of appeals be significant and covering a variety of decisions of the Administrators, Government will consider whether it will be appropriate and consistent with Better Regulation principles to refer appeals to an independent tribunal.

The 2007 Tribunals, Courts and Enforcement Act provided for a new system for appeals – the First Tier Tribunal (FTT). The existing chambers within the FTT do not provide for hearing of appeals associated with environmental regulations. A new 'general regulatory chamber' is currently being developed and this chamber could

potentially hear any appeals against a decision taken by Administrators on the grounds of a regulatory instrument. Government will consider in due course whether the First-Tier Tribunal would be the appropriate body to determine CRC appeals rather than the responsibility lying with the Secretary of State or relevant Ministers in the Devolved Administrations.

The appeals process is drafted in the Draft Order in Article 93 and Schedule 25.

Question 63. **Is the appeals process clear and reasonable?**

Yes / No / Don't Know

If no, please explain reasons

Government proposes that participants should be allowed to appeal against the decision of the Administrators to place them in a particular position in the Performance League Table (PLT), if they believe that the Administrators have made a mistake and not correctly accounted for energy consumption data submitted as part of the Annual Report.

The deadline to bring the appeal is the deadline proposed for appeals in general – 20 days from the notification of the decision of the Administrators. In the case of the PLT, the notification of the decision of the Administrators would be deemed to be the day when the Administrators publish the PLT.

Government proposes that a revised version of the PLT taking into account the outcome of all appeals processes brought against ranking in the PLT would be published in April (as described in section 8.4.2).

Government proposes that as a result of winning the appeal, the participant would be entitled to compensation. Compensation would be paid the following compliance year, and would be drawn from the revenue raised in the following year's sale or auction.

For example, a participant that wins an appeal against ranking received in the October 2015 PLT, will receive compensation in October 2016 by the addition of any proportionate sum to any revenue recycling payment payable to the participant. The Administrators would use the revenue raised in the April 2016 auction to pay the outstanding sum. The same participant will also receive the revenue recycling for the compliance year 2015/2016, calculated on the basis of the October 2016 PLT.

Only the participant that wins the appeal is entitled to receive compensation. The grant paid to all other participants will not be recalculated nor adjusted.

Government proposes that any mistakes detected by the participant or by the Administrators performing an audit should not entitle the participant to appeal against the ranking received in the PLT. This is because the Administrators can only calculate the PLT on the basis of the data submitted by the participants, so the participants need to be responsible for submitting data as accurate as possible. The same rationale applies to instances where participants have discovered and reported an error in their annual returns.

Government does not propose to adjust the recycling payment already calculated and paid, as a result of those instances where an error in annual returns has been identified.

11.5 Criminal Offences

Government proposes that CRC relies almost exclusively on civil penalties to guarantee compliance with the scheme. However, active and knowing attempts by participants to falsify evidence or obstruct and mislead the Administrators are a more serious offence and should bear a more severe punishment.

Below is a table which details the instances of falsification, deception and non-compliance with enforcement, which would be subject to criminal offences within the enforcement framework for the scheme.

Offence	Penalty
<u>Falsification and deception</u> • Knowingly or recklessly make false or misleading statement • Falsification of evidence	<u>Summarily</u> • Imprisonment up to three months • Fine not exceeding statuary maximum applicable in England <u>Indictment</u> • Imprisonment up to two years • Financial penalty (undetermined)
<u>Non-compliance with enforcement</u> • Failure to comply with an enforcement notice • Intentionally obstruct the Administrators • Failure to provide assistance, facilities and information or to permit any inspection • Failure to appear, or prevent any other person to appear, before the Administrators as part of an inspection	

Table 11.3: Penalties for Criminal Offences

The punishment for criminal offences will vary depending on whether the case is heard under summarily procedure or by indictment. The offences are drafted in Article 94 and Schedule 26 of the Draft Order.

The Climate Change Act provides Government with wider powers in relation to criminal offences. However, Government considers that it would not be appropriate to provide for offences and punishment more significant than the enforcement system adopted in the EU ETS. As the two schemes complement each other in terms of climate change policy, and considering in some cases there will be organisations that participate in both schemes at the same time, it is important to ensure the framework for criminal offences is consistent, so that neither of the two schemes provides for more stringent criminal offences.

The current proposal provides for standard penalties to be applied across the UK. Government is considering the possibility of providing for different statutory maximum penalties as applicable in each of the Devolved Administrations.

Question 64. **Do you agree with the level and type of punishment proposed for criminal offences?**

Yes / No / Don't know

If No, please give reasons

11.6 Power of inspection

Power of inspection allows the Administrators to enter premises. Use of this power will enable the Administrators to obtain information that is necessary to maintain the integrity of the scheme.

As part of the audit process, the Administrators may choose to inspect sites to verify the data given, particularly where the data provided is insufficient or there is reasonable suspicion that it is inaccurate. Thus a power of inspection will be necessary to carry out such assessments.

Power of inspection may also be required if a participant fails to provide information to the Administrators where it is required to do so, or has failed to comply with their legal obligations under CRC in some other respect.

Where participants fail to submit such information, it is therefore necessary that the Administrators have the power to obtain it themselves. Power of inspection will, therefore, be used as a last resort to enable the Administrators to enter premises for the purposes of viewing documents, making observations or taking meter readings.

Power of entry already exists in respect of other environmental legislation. This is set out in the Environment Act of 1995. The power of inspection in CRC is based on the relevant parts of Section 108 and 110 of the 1995 Act and delivers the necessary powers of inspection and appropriate limitations required for CRC.

Question 65. **Do you agree with the overall approach that Government has taken to enforcement of the Carbon Reduction Commitment?**

Yes / No / Don't know

If No, please give reasons

12 Fees and Charges

12.1 Overview

Government stated in the June 2007 consultation on implementation proposals for CRC, that the costs of scheme administration and regulation will be recovered as appropriate via a charging framework. Government proposes to set charges in the Draft Order, and that a single set of charges should apply throughout the UK. Article 89 of the Draft Order provides the Administrators with the power to charge participants and account holders and Schedule 23 provides the details relating charges. Fixed charges have been included in the schedule but the Administrators have the power to vary these or charge for other services provided various safeguards in the Draft Order are complied with.

General principles of charges are that they must be fair and reflect the actual cost of the work, must be calculated consistently and must be easy for charge payers to understand. They must also follow certain principles, which include the following:

- income from charging schemes can be spent only on the individual functions that they relate to.
- charges should recover only the costs that the Secretary of State considers appropriate.
- charges should fairly reflect the cost of regulating.
- any over-spend or under-spend from a charging scheme must be taken into account when annual charges are set for the next financial year.

CRC will be a 'light touch' regulatory regime with a web-based registry interface which will allow participants themselves to register, amend details and undertake other actions. The framework in the table below, and charges in Schedule 23 therefore reflects this simplicity.

12.2 Proposed areas for charging

Government has worked with the Administrators to determine the types of charge needed to recover costs for administering CRC. Government therefore proposes:

- **Registration charge for participants** – a flat rate charge on registration of a scheme participant.
- **Annual subsistence charge for participants** – annual flat rate charge.
- **Registration charge for non-participant account holders (third parties)** – a flat rate charge for opening an account.

- **Annual subsistence charge for non-participant account holders (third parties)** – annual flat rate charge.

- **Safety valve purchase charge** – a charge to cover the administration of purchasing safety valve allowances (applicable to both participants and non-participant account holders).

- **ID check charge** – flat rate charge for additional identity checks (applicable to both participants and non-participant account holders).

The detail of what each charge type covers is given in the table. Charges have been calculated on the basis of receiving between 3000 and 4000 participants (to err on the side of caution – with a higher number of participants the charges could be lower). Charges may be revisited before the Draft Order is finalised as government better understands the number of participants in CRC.

12.2.1 Subsistence charge

Government proposes that subsistence charges for registered participants, and other account holders, will be payable in full where a 'live' account is held during any part of an operating/trading year, with no pro-rata calculation if account opening or closure occurs part way through a particular year, i.e. no refund is made if the scheme is left/joined part way through a year. The justification for this is that the amount of subsistence work involved is largely unaffected by a participant joining or leaving the scheme part way through a year. This will keep the scheme simple, reduce charging and billing administration, and keep operational costs down.

Government proposes a flat rate charge for the Introductory Phase. Similar schemes like the EU ETS have demonstrated that effort is unrelated to emissions. CRC is a new sector and as yet Government does not know the spread of energy use that would inform the development of a tiered approach. It may, however, be something Government wishes to develop in the longer term, where justified.

12.2.2 Auditing

The Administrators are required to recover the full cost of running CRC. These costs have a number of fixed elements. These include items such as IT hosting, maintenance and development costs, financing costs, provision of guidance and help-desks and management overheads.

As set out in the Government response to the CRC policy design consultation, Government has decided that around 20% of CRC participants each year will be selected for audit. As a result, all participants can expect to be audited during a five year phase.

Government estimates the cost of its proposed approach to auditing at £910k per annum, based on 3000 to 4000 participants. This should be set in the context that

the size of the CRC market is estimated to be around £660m per annum (based on CRC coverage of 55 $MtCO_2$ and a carbon price of £12/tCO_2).

Question 66. **Government would welcome feedback on the approach set out above on:**

(i) the charging proposals;

(ii) Schedule 23 of the CRC Draft Order;

(iii) the approach to audit charges.

Table 12.1 sets out details of the types of charge, amount payable and work covered by the charge.

Charge Type	Charge Amount	Payment Type	Work covered by charge
Registration charge for participants	£950	One-off flat rate charge on registration	Registration compliance audit Registration enquiries and helpdesk Orphan meter investigations Initial ID checks at registration IT hosting Provision of registration and compliance instructions/guidance Industry communications

Subsistence charge for participants	£1,300 p.a.	Annual flat rate charge	Compliance audits Regulation, compliance and monitoring Processing variations, transfers and surrenders of accounts IT hosting and servicing Provision of guidance and communications Registry helpdesk Registry account maintenance, including allowance issuance Reporting Payment recycling administration Fixed price allowance sale administration End of year production of performance table
Registration charge for opening non-participant	£285 per registration	One-off flat rate charge on opening of an account	Initial ID checks at registration IT hosting Registration helpdesk

(trading) account			Provision of registration instructions/guidance Industry communications
Subsistence charge for non-participant account holders	£390 p.a.	Annual flat rate charge	IT hosting and servicing Provision of guidance and communications Helpdesk Registry account maintenance, including allowance issuance
Safety Valve purchase charge	£300	One-off charge on each request to purchase SVs (in addition to the costs of the allowances, currency and banking charges and brokerage charges which will be passed on directly to the	Purchase and retirement of EU ETS allowances Generation of CRC SV allowances Administration in relation to processing the request for SV allowances

		purchaser)	
ID check charge	£200	Flat rate charge for each ID check required by any non-registered participant or registered participant (after the initial ‘free’ ID checks at registration)	ID check

Table 12.1: Charges for CRC

Annex 1: Examples of Designated Changes

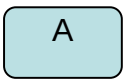
There are essentially two types of transfer of responsibility which would be accounted for by the scheme's 'Designated Change' mechanism; those where a participant or principal subsidiary is sold to, taken over by or merges with a non participant; and those where the transfer occurs between existing participants. All Designated changes will be deemed to have taken effect at the start of the emissions year during which they occurred. All historic emissions averages and revenue recycling base year data will be updated accordingly. The different examples are dealt with in turn below.

A. Transfers involving a participant and a non-participant

Where a participant or principal subsidiary merges with or is taken over by a non-participant, the purchasing organisation will become a new CRC participant. Responsibility for complying with the scheme will transfer to the new owner. However, the new owner will have to report emissions only from the original participant. It will not have to report on emissions from parts of its business that were not previously included in the scheme until the start of the next phase (if it qualifies at that time).

= CRC participant who has its emissions included in CRC for the duration of the phase.

= Responsible CRC participant who does not have its emissions included in CRC for phase.

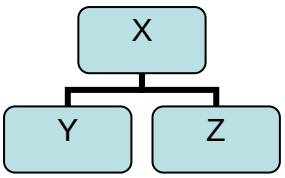


= Non participant with no emissions included in CRC for duration of the phase.

i. Existing participant taken over by non-participant

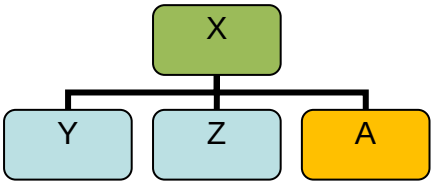
Non-participant Group X buys participant A. Group X is required to participate in the scheme for the remainder of that phase only for the emissions from A. Group X is not required to report any emissions from parent X or its other subsidiaries Y and Z, or surrender allowances to cover those emissions. For the remainder of the phase, A will remain the participant as far as the scheme's reporting and performance commitment requirements are concerned, although Group X, has the responsibility for ensuring A complies.

= Participant A



= Non Participant Group X

Group X purchases A. X becomes the new parent and is required to report emissions and hold allowances for A. For the remainder of the phase X is not required to report emissions or hold allowances for any emissions from the other parts of its group (X, Y or Z).

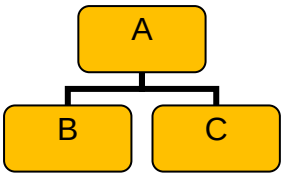


Organisation A's entire historic emissions baseline and revenue recycling payment and the responsibility for reporting on Organisation A's emissions would be taken on by Organisation X. Organisation A would be classed as a principal subsidiary of Organisation X. Although Organisation X would have the responsibility for reporting in the scheme for Organisation A's emissions, Organisation A would continue to be listed in the league table for the remainder of the phase.

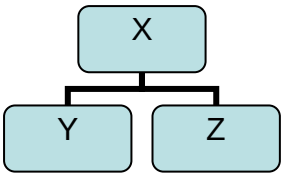
At the start of the next phase, if Group X is large enough to participate (which is likely unless A contracts substantially) it will come into the scheme for the emissions from the whole of its group (X, Y, Z and A) and A will be treated at if it were a principal subsidiary of X.

ii.Principal subsidiary purchased by non-participant

When a principal subsidiary of a participant is purchased by a non-participant, the responsibilities for complying with the scheme will transfer as if that principal subsidiary were a participant. For example, principal subsidiary C is part of Group A, a participant. Subsidiary C is purchased by Group X, a non-participant. Group X is required to participate in the scheme for the remainder of that phase for the emissions from C. Group X is not required to report any emissions from its other subsidiaries Y and Z, or surrender allowances to cover those emissions. For the remainder of the phase, Subsidiary C remains the participant as far as the scheme's reporting and performance commitment requirements are concerned, Group X now has the legal responsibility for ensuring Subsidiary C complies.



= Participant Group A

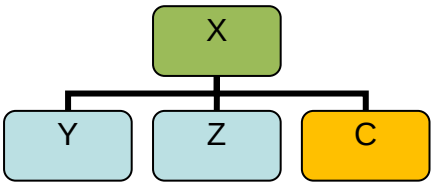


= Non participant Group X

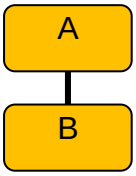
Group X purchases C. Group X becomes the new parent and is required to report emissions and hold allowances for subsidiary C. For the remainder of the phase Group X is not required to report emissions or hold allowances for any emissions from the other parts of its group (X, Y or Z).

Subsidiary C's entire historic emissions baseline and proportion of revenue recycling payment would be taken on by Organisation X. Subsidiary C would be classed as a principal subsidiary of Organisation X.

At the start of the next phase Group X will come into the scheme for the emissions from the whole of its group (X, Y, Z and C) if it is above the qualification threshold.

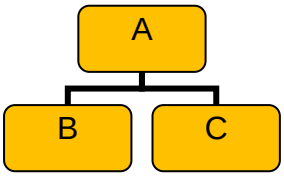


Group A must continue to participate in the scheme for the remainder of the phase for its emissions from A and B, even if it the sale of subsidiary C took it below the original qualification threshold. Its revenue recycling (2010/11 emissions) and historic average emissions will be adjusted downwards to reflect the sale of Subsidiary C. Its qualification for the scheme will be reassessed at the beginning of the next phase.

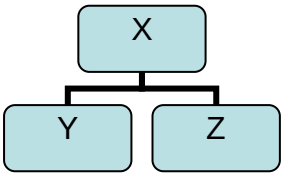


iii. Mergers between a participant (or principal subsidiary) and a non-participant

Only mergers involving the transfer of share ownership will be accounted for under Designated Changes due to the administrative complexities that would be involved with monitoring mergers that only involve asset transfers. When a participant or principal subsidiary undergoes a merger with a non-participant, the new undertaking will take on the responsibility that was held by the previous participant, or principal subsidiary.

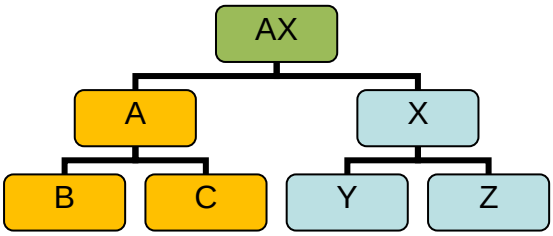


= Participant Group A, with two Principal Subsidiaries B and C

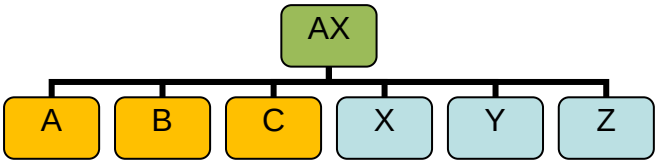


= Non participant Group X, with two subsidiaries Y and Z

Participant Group A and non participant Group X, merge to form Group AX. Group AX becomes the parent of Groups A and Z and will be the participant in the scheme. Groups A and X become subsidiaries of Group AX. Group AX will have to report emissions and surrender allowances for the parts that made up the former Group A (A, B and C). Group A will continue to be listed in the league table until the start of the next phase. The former parts of Group X (X, Y and Z) will not be included until the start of the next phase.



Or,



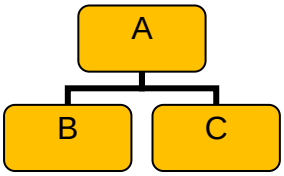
B. Transfers between participants

Takeovers, sales and merges will also occur between organisations that are existing participants within the scheme. In these instances the 'Designated Change' mechanism will allow participants' historic emissions baselines and revenue

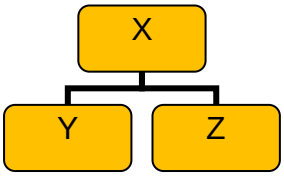
recycling calculations to be adjusted to allow for the change. It will also allow for the creation of new participants where a demerger of a principal subsidiary, or the merger of existing participants to form new entities, occurs.

v.Participant purchased by another participant

Where an entire participant is purchased by another participant, then the purchased entity will be become a principal subsidiary of its new owner. For example Group A is taken over by Group X.

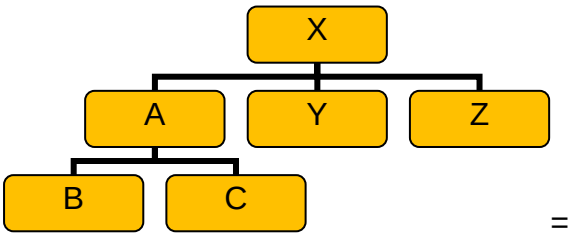


= Participant Group A with Principal Subsidiaries B and C.



= Participant Group X with Principal Subsidiaries Y and Z

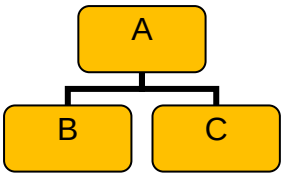
Group X purchases Group A. Group A and its Principal Subsidiaries B and C all become Principal Subsidiaries of Group X. Group X will have to report a separate emissions figure for A, B and C as well as Y and Z. Group X's historic emissions baseline and revenue recycling payment (2010/2011 emissions) will be adjusted to reflect the purchase and Group A will not be listed as a separate entity in the league table. This would be reflected in the league table published at the end of the reporting year during which the transfer occurred.



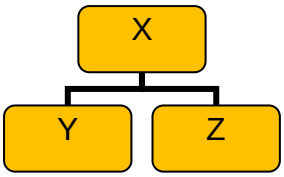
= New Group X structure

vi. Principal subsidiary of one participant purchased by another participant

Where the principal subsidiary of one participant is purchased by another participant, then the purchased entity will become a principal subsidiary of its new owner. For example Principal subsidiary B of Group A is purchased by Group X.

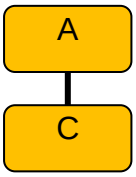


= Participant Group A with Principal Subsidiaries B and C.

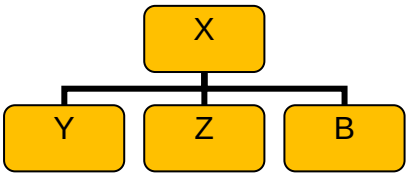


= Participant Group X with Principal Subsidiaries Y and Z

Group X purchases principal Subsidiary B from Group A. Group X will have to report a separate emissions figure for B, as well as Y and Z. Group A will continue to report in the scheme for emissions from the parent A and the principal subsidiary C. Group X and Group A's historic emissions baselines and revenue recycling payments will be adjusted to reflect the purchase as if the purchase took place at the start of the year.



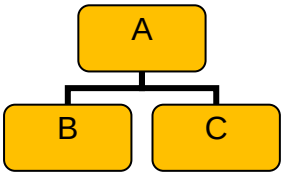
= New Group A structure



= New Group X structure

vii. Principal subsidiary becomes a stand-alone entity

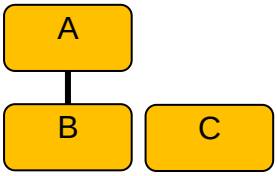
Where a principal subsidiary becomes a stand-alone entity, possibly due to a management buy-out, the principal subsidiary will become a full participant in CRC.



= Participant Group A with Principal Subsidiaries B and C.

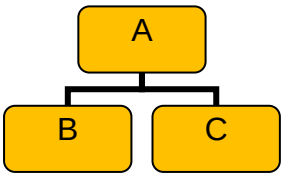
Subsidiary C undergoes a management buy-out. It leaves Group A and becomes a full participant in the scheme. Both Group A and new participant C participate in the

scheme. Both Group A and the new participant C will be listed in the league table. Subsidiary C's performance and revenue recycling payments would be assessed against its previously disclosed historic emissions. Organisation A's historic emissions baseline and revenue recycling amount would be reduced by a corresponding amount. This will be adjusted to reflect the separation as if it took place at the start of the year.

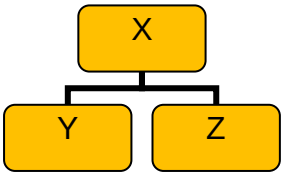


viii. Merger between two participants (or participating Principal Subsidiaries)

When two participants merge to form a new undertaking, the new undertaking will take on the responsibility that was held by the previous participants, or Principal Subsidiaries. The new group will take on all the responsibilities from the original participants and be listed in the league table.

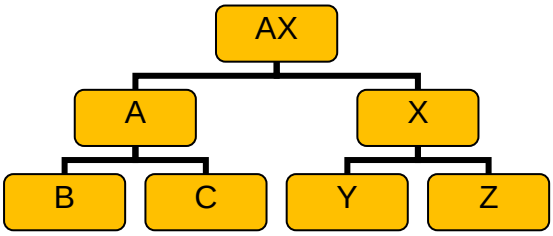


= Participant Group A with Principal Subsidiaries B and C.

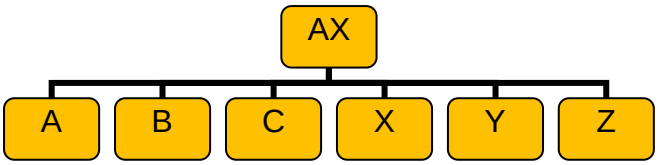


= Participant Group X with Principal Subsidiaries Y and Z

Merge to form:



Or,



From this point forwards the new group AX will be the entity listed in the league table. The entire historic emissions baselines of Organisation A and Organisation X would be combined to form Organisation AX's baseline and to calculate its revenue recycling payment. Organisation AX then reports on all the organisation's emissions. Organisations A and X are no longer listed in the league table.

Annex 2: Landlord and tenant energy efficiency partnerships: Potential impact of CRC and role of CRC good practice guidance

Government has considered the issue of how landlords and tenants could voluntarily agree to share the costs and benefits of CRC, so as to maintain administrative simplicity for both parties, and so as to incentivise investments in energy efficiency.

Landlord and tenant organisations have started to work collaboratively in developing "good practice" voluntary guidance on this matter. Government is committed to supporting the development of industry good practice guidance and officials are following the proceedings of a working group convened by the British Property Federation and the British Retail Consortium.

Rather than CRC costs simply being passed through from landlord to tenant, CRC will provide large landlords with a financial and reputational incentive to offer information, advice and energy efficiency support services to tenants – just as local authorities and franchisors will have a financial and reputational incentive to offer information, advice and energy efficiency support services to schools and franchisees respectively. Moreover, given that CRC is revenue neutral to the Exchequer, landlords that perform well in CRC could receive a performance payment that significantly exceeds the cost of buying allowances.

Government recognises that landlords will not have absolute control over the energy use of their tenants. At the same time, Government is aware that some landlords already do exert some positive influence on tenant energy efficiency, and CRC aims to multiply such good practice. CRC landlords with corporate energy management expertise are well placed to raise awareness about energy efficiency opportunities and to offer energy efficiency support services, thus spreading good practice.

In particular, Government welcomes efforts by tenants and landlords to work collaboratively in developing good practice guidance. Government proposes that the establishment of energy efficiency investment funds – established on a building by building basis, would be a workable solution to drive cost-effective energy efficiency investments.

Such funds, financed primarily by tenants for tenants (with the landlord providing administrative support, expertise and advice), and potentially administered by a committee involving both the landlord and tenants, could be a very effective means of improving the energy efficiency of buildings – saving tenants money on the service charge, saving landlords money on energy bills and improving landlords' position in the CRC league table. Notably, to improve their position in the CRC league table, landlords may find it advantageous to also contribute monies to such funds in certain

circumstances – for example where a majority of the tenants within a given building have agreed to pay into the fund (or where tenants covering the majority of the energy use from the building have agreed to pay into the fund). Such a targeted approach would help maximise the ‘value added’ for the landlord, and would also encourage tenants to communicate with each other, increasing the extent of tenant participation in the fund, to the benefit of all.

Annex 3 – An Illustrative Example of the Recycling Payment in the Third Year of the Scheme

Example only uses 10 participants for simplicity - the actual bonus or penalty percentage will be spread on a linear basis (from a maximum of 30% through to -30%) between the first and last participant

	Allowances Purchased in Fixed Price Sale (i)			Recycling payment calculation					
Organisation	Yr 3 quantity of allowances purchased	Yr 3 auction revenue paid £ (ii)	Yr 3 Actual emissions tCO2 (iii)	Yr 3 League table position	2010/11 emissions tCO2 (iv)	bonus/ penalty % (v)	Recycling payment score (vi)	% total recycling score	Yr 3 revenue recycling payment £ (vii)
A	800	**£9,600**	750	1	1000	30%	1300	15%	**£16,003**
B	200	**£2,400**	210	2	250	15%	288	3%	**£3,539**
C	90	**£1,080**	90	3	100	10%	110	1%	**£1,354**
D	**2400**	**£28,800**	**2500**	**4**	**2700**	**5%**	**2835**	**32%**	**£34,899**
E	200	**£2,400**	300	5	300	0%	300	3%	**£3,693**
F	2100	**£25,200**	2050	6	2000	0%	2000	23%	**£24,620**
G	230	**£2,760**	250	7	200	-5%	190	2%	**£2,339**
H	110	**£1,320**	140	8	100	-10%	90	1%	**£1,108**
I	1200	**£14,400**	1500	9	1000	-15%	850	10%	**£10,464**
J	1700	**£20,400**	2000	10	1200	-30%	840	10%	**£10,341**
Total	**9030**	**£108,360**	**9790**		**8850**	**0%**	**8803**	**100%**	**£108,360**

Notes

(i) Participants can purchase as many or as few allowances in the sale/auction as they desire - allowances not required can be sold to other participants or banked for use in future years with the exception of the third scheme year when Introductory Phase allowances will not be able to be banked for future years.

(ii) Example uses £12/tCO2 and does not include any money paid for allowances on the secondary market, or through the safety valve.

(iii) Participants will have to retire sufficient allowances to cover their actual annual emissions - additional allowances can be purchased from other participants or through the safety valve

(iv) Participants will receive a recycling payment proportional to their 2010/11 emissions (not their current year)

(v) For illustration only; the actual bonus or penalty will be spread on a linear basis (from a maximum of 30% through to -30%) between the first and last participant and will be determined by a participant's position in the performance league table based on three metrics

(vi) Recycling payment score = 2010 CO_2 emissions multiplied by bonus/penalty. Note: this column used to illustrate the way in which the revenue recycling payment is calculated and would not feature in the published league table.

(vi) % total recycling score = Participant's recycling score divided by the total recycling score

(vii) Total auction revenue multiplied by participant's % of total recycling score

The table above demonstrates how revenue would be recycled to participants in CRC in Year Three of the scheme. In the example, organisations A-J forecast their emissions and all buy allowances accordingly at £12/tCO_2 in the fixed price sale at the start of the emissions year. The total value of allowances bought is £108,360. Organisation D forecasts emissions of 2,400 tCO_2 and buys 2,400 allowances at a cost of £28,800 to cover these emissions.

During the ensuing emissions year, participants collect and collate their emissions figures and may find they have bought too few allowances in the initial sale (and therefore need to buy more allowances to cover their actual emissions e.g. through the secondary market), or have bought too many in the initial sale and sell them (again, through the secondary market).[42] Accordingly the actual quantity of emissions – and hence number of allowances retired – for each participant (iii) may not match the number of allowances originally purchased. For example, Organisation D finds that its emissions were in fact 2,500 tCO_2 and thus buys 100 allowances from another participant.

On the basis of their performance against the three different metrics (figures for these are not shown), the organisations are then ranked from 1-10. As the scheme is in its third year, the maximum bonus/penalty is 30%, with positions in between first and last place assigned a bonus/penalty rate on a linear scale between these extremes. Organisation D has achieved a reduction of 200 tCO_2 relative to its 2010 emissions of 2,700 tCO_2, and achieves fourth position in the league table. Accordingly, D is awarded an amount proportional to its 2010 emissions, with an additional 5% bonus.

To calculate each organisation's recycling payment:

1. Participants are assigned a *'Recycling Payment Score'* calculated from their *2010/11 emissions multiplied by their bonus/penalty factor* – For example, Organisation D receives a *Recycling Payment Score* of 2835 (2,700 (its 2010/2011 emissions), multiplied by 5% (its bonus or penalty factor)).
2. All the participants' *Recycling Payment Scores* are then summed to generate a *Total Scheme Recycling Payment Score* (8803).
3. Participants are then assigned a percentage proportion of the *Total Scheme Recycling Payment Score* based on their *Recycling Payment Score* as a proportion of the *Total Scheme Recycling Payment Score*. For example Organisation D scores 32% (2835/8803 x 100 = 32%).
4. Participants are then paid a proportion of the total revenue raised from the auction (£108,360) based on their proportion of the *Total Scheme Recycling Payment Score*. For example, Organisation D receives a payment of £34,899 (£108,360 x 32% = £34,899).

[42] Alternatively the organisation could bank the allowances for use in future years.

Performing the calculation in this way ensures that the amount of revenue recycled is always equal to the total ‘pot’ available. Importantly, in this instance Organisation D receives more money in its recycling payment than it paid into the auction, however, this does not take account of the money it has spent on the 100 allowances on the secondary market.

List of Questions

Question 1. **Do you agree that organisations should have to report total energy use emissions from their Principal Subsidiaries?**

Yes / No / Don't know

If no, please explain your reasoning

- Does the wording in the Draft Order (Article 2 and Schedule 16) around Principal Subsidiaries lead to any unforeseen consequences?

Yes / No

If yes, please explain your reasoning

Question 2. **Do you agree that Government should transfer the responsibility for participating in the scheme with the purchase of participants and Principal Subsidiaries?**

Yes / No / Don't know

If no, please explain your reasoning

Question 3. **Do you agree that designated business change should be deemed to have taken place at the start of the emissions year?**

Yes / No / Don't know

If no, please explain your reasoning

Question 4. **Does the wording in the Draft Order (Article 7 and Schedule 2) around the treatment of business groups lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 5. **Do you agree that the proposed definition of franchising (see Paragraph 6 of Schedule 3) achieves the stated CRC policy goal of including large franchise based and similar organisations?**

Yes / No / Not Sure

If no, please explain your reasoning and suggest a workable alternative approach which could achieve these objectives

- Does the proposed definition of franchises lead to unforeseen consequences, if so, what?

Question 6. **Do you agree with the proposed policy approach as regards determining ownership of Joint Ventures and PFI?**

Yes / No / Don't know

If no, please explain your reasoning and suggest an alternative approach which achieves Government objectives and is in line with the overall aim of the scheme

Question 7. **Are there any other collegiate universities where it would also be beneficial for independent colleges to be grouped as part of the university?**

Yes / No

If yes, please explain your reasoning along with the specific examples

Question 8. **Do you agree that schools should report annual energy use data to LAs as part of the wider Associated Person 'reasonable assistance duty'?**

Yes / No / Don't know

If no, please explain reasoning and propose a more suitable alternative

- Does the Draft Order lead to any unintended consequences?

Question 9. **Do you agree with the proposed approach for NHS organisations participating in CRC**

Yes / no / don't know

If not, please explain your reasoning.

Question 10. **Do you agree with Government's proposal not to proceed with the option of allowing limited transfers of emissions responsibility from the landlord to the tenant?**

Yes / No / Not Sure

If no, please explain reasoning. Do you have alternative proposals that would ensure fairness, transparency and that would not reduce the emissions coverage of the scheme, or increase the administrative burdens?

Question 11. **Do you agree with the proposed approach to domestic households?**

Yes / No / Don't know

If no, please give your reasons

Are there aspects which Government needs to consider in taking forward this approach?

Question 12. **Does the wording in the Draft Order (Articles 6 - 27) around qualification lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 13. **Do you think that organisations with half hourly settled electricity of at least 6,000 MWh should have to disclose their total half hourly electricity (and, if not, that the Order should be amended accordingly)?**

Yes / No / Don't know

Any comments welcome

Question 14. **Does the wording in the Draft Order (Article 36 and Schedule 10) with regards to registration lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 15. **Does the wording in the Draft Order (Schedule 7, Paragraph 1) around the exclusion of EU ETS emissions lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 16. **Does the wording in the Draft Order (Schedule 7, Paragraph 2) around the exclusion of CCA emissions lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 17. **Does the wording in the Draft Order (Schedule 6, Paragraph 4 and 5) around the exclusion of fuels purchased for trading purposes lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 18. **Does the wording in the Draft Order (Schedule 12, Paragraphs 1 and 2) around the calculation of a participant's footprint lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 19. **Does the wording in the Draft Order (article 38 and Schedule 12) around the calculation of the 'Applicable percentage' and the compilation of a residual measurement list lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 20. **Taking each core CRC electricity source in turn, do the electricity metering definitions set out at Schedule 8 part 1 of the Draft Order correctly identify Core sources as described above?**

(i) electricity from half hourly meters settled on the half hourly market

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(ii) electricity from pseudo half hourly metering

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(iii) electricity from half hourly Automatic Meter Reading (AMR) meters

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(iv) electricity from profile class 5-8 meters

Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

Question 21. **Taking each core CRC gas source in turn, do the gas metering definitions set out at Schedule 8 part 1 of the Draft Order correctly identify the stated sources?**

(i) gas from daily read gas meters

- Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(ii) gas from Automatic Meter Reading (AMR) gas meters

- Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

(iii) gas from large gas supply points

- Does the definition in the Draft Order correctly identify these meters?

Yes / No

If no, please explain reasoning

Question 22. **Please indicate your preferred option to the treatment of school's energy use in CRC and justify your response.**

Question 23. **Do you agree with the proposed Transport exemption for large qualifying organisations with very limited CRC energy use?**

Yes / No / Don't know

If no, please explain reasoning

Any comments welcome

Question 24. **Do you agree with the proposed Transport exemption based on an exemption threshold of 1,000 MWh total half hourly electricity use (over the qualification year/footprint year)?**

Yes / No / Don't know

If no, please explain reasoning

Question 25. **Do you agree that the Transport exemption should apply for the duration of a phase?**

Yes / No / Don't know

If no, please explain reasoning

Question 26. **Do you agree that the CCA Group member exemption and Residual Group Exemption should be based on half hourly electricity usage over the 'footprint year'?**

Yes / No / Don't know

If no please suggest an alternative period

Question 27. **In the case of Residual Group organisations covered by Climate Change Agreements (CCAs) where the Residual Group organisation subsequently ceases to be covered by any CCA, do you agree that the Residual Group organisation should fall back into CRC from the start of the next compliance year?**

Yes / No / Don't know

If no, please state alternative approach, giving reasoning

Question 28. **Do you agree that proposed minimum Safety Valve price of £12/tCO2 is appropriate?**

Yes / No / Don't know

If no, please state reasoning and indicate an alternative price

Question 29. **Do you agree with Government's proposal to issue safety valve allowances once a month to reduce administrative costs?**

Yes / No / Don't know

If no, please explain reasoning and your preferred alternative approach

Question 30. **Does the wording in the Draft Order (Paragraphs 1 to 5 of Schedule 20) around the calculation of the early action metric lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 31. **Does the wording in the Draft Order (Paragraph 11 of Schedule 20) around the calculation of the Performance League Table lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 32. **Do you agree that the Performance League Table should be published twice, to take into account the outcome of appeals and adjustments necessary to correct any errors?**

Yes / No / Don't know

If no, please explain reasoning and your preferred alternative approach

Question 33. **Does the wording in the Draft Order (Para 14 to 16 of Schedule 20) around the methodology for updating baselines to account for CCA emissions transfers lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 34. **Do you agree that Government should update historic baselines to reflect the sale or purchase of Principal Subsidiaries and participants ('Designated Changes')?**

Yes / No / Don't know

If no, please explain

Question 35. **Does the wording in the Draft Order (Para's 17 and 18 of schedule 20) around the methodology for updating baselines to account for 'Designated Changes' lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 36. **Does the wording in the Draft Order (paragraphs 21 to 26 of schedule 20) around the disclosure of information on energy management lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 37. **Does the wording in the Draft Order (Part 3, Chapter 2) around participant obligations lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 38. **Does the wording in the Draft Order (Schedule 11) around the Footprint Report lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 39. **Does the wording in the Draft Order (Schedule 13) around the Annual Report lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 40. **Do you agree with Government's proposals for the Footprint and Annual reports?**

Yes / No / Don't know

If no, please explain and suggest and alternative proposal which maintains the integrity and auditability of the scheme.

Question 41. **Do you agree that the fuel conversion factors should be in $kgCO_2$/ per measurement unit, rather than $kgCO_2$/kWh or any other measure?**

Yes / No / Don't know

If no, please explain why?

Question 42. **Do the fuels listed in this section (and as set out in the table) cover all the fuels used by your organisation, other than those which are from 100% renewable resources?**

Yes / No / Don't know

If no, which fuels are missing from this table?

Question 43. **If you do not agree with the fuel conversion factors stated in the table above, please explain why you think the conversion factors should be different to those stated above.**

Question 44. **Are there any unintended consequences from the energy factors proposed?**

Question 45. **Do you agree with Government's proposal to require the disclosure of the type and quantity of fuels not listed in the conversion table?**

Yes/no/ Don't know

If not, please explain your reasoning

Question 46. **Do you agree with the proposed treatment of estimates regarding mixed fuels?**

Yes / No / Don't know

If no, please suggest and justify any alternative treatment

Question 47. **Do you agree with the proposed approach to establishing when an energy bill counts as an estimate for the purposes of applying a 10% emissions uplift?**

Yes / No / Don't Know

If no, please describe how you would propose to define non-estimated bills to ensure transparency, accuracy and auditability?

Question 48. **Does Government's proposal around the treatment of energy generation lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 49. **Does the wording in the Draft Order (Schedule 14) around the records to be maintained in the evidence pack lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 50. **Does the wording in the Draft Order (Part 8) around the creation of the registry system lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 51. **Does the wording in the Draft Order (Parts 6-9) around the respective roles of the Administrators lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 52. **Does the wording in the Draft Order (Article 63) around the audit process lead to any unforeseen consequences?**

Yes / No

If yes, please explain your reasoning

Question 53. **Do you agree with the level and type of penalties imposed for failure to register?**

Yes / No / Don’t know

If no, please explain reasons

Question 54. **Do you agree with the level and type of penalty imposed for failure to disclose information?**

Yes / No / Don't know

If no, please explain reasons

Question 55. **Do you agree with the level and type of penalties imposed for failure to provide a footprint report?**

Yes / No / Don't know

If no, please explain reasons

Question 56. **Do you agree with the level and type of penalties imposed for failure to provide an annual report?**

Yes / No / Don't know

If no, please explain reasons

Question 57. **Do you agree with the consequence of depriving participants of the revenue recycling payment for that year?**

Yes / No / Don't know

If no, please explains reasons

Question 58. **Do you agree with the level and type of penalties imposed for incorrect reporting**

Yes / No / Don't know

If no, please explain reasons

Question 59. **Do you agree with the level and type of penalties imposed for failure to comply with the performance commitment?**

Yes / No / Don't know

If no, please explain reasons

Question 60. **Do you agree with the level and type of penalties imposed for failure to keep adequate records?**

Yes / No / Don't know

If no, please explain reasons

Question 61. **Do you agree with the procedure for dealing with failure to comply with civil penalties?**

Yes / No / Don't know

If no, please explain reasons

Question 62. **Do you agree with the proposed enforcement process for this obligation?**

Yes / No / Don't know

If no, please explain reasons

Question 63. **Is the appeals process clear and reasonable?**

Yes / No / Don’t Know

If no, please explain reasons

Question 64. **Do you agree with the level and type of punishment proposed for criminal offences?**

Yes / No / Don’t know

If No, please give reasons

Question 65. **Do you agree with the overall approach that Government has taken to enforcement of the Carbon Reduction Commitment?**

Yes / No / Don’t know

If No, please give reasons

Question 66. **Government would welcome feedback on the approach set out above on:**

(i) the charging proposals;

(ii) Schedule 23 of the CRC Draft Order;

(iii) the approach to audit charges.

Glossary of terms used in this consultation document

Administrators	The Environment Agency (EA), Scottish Environmental Protection Agency (SEPA) and the Department of Environment in Northern Ireland are appointed as the joint scheme Administrators. Basic administrative functions will be carried out by the EA for the whole of the UK and certain functions must be performed by them, such as operating the registry and maintaining accounts. Scheme regulation will be carried out by the relevant body in each part of the UK and include such functions as carrying out audits on participants and taking enforcement action against any organisation whose HQ is in their jurisdiction.
Allowance	A participant will have to hold and cancel an allowance in CRC for each tonne of Carbon Dioxide (CO_2) emitted.
Annual Report	The report that each participant must provide via the online registry system by the last working day in July each year, detailing their emissions for the previous financial year.
Applicable Percentage	Participants will be required to ensure that at least 90% of their total footprint emissions are regulated by either CRC, EU ETS or CCA. If, having included all the Core Sources, the percentage of emission coverage has not yet reached the point where 90% of total footprint emissions are regulated, then it must include some Additional Sources until the organisation's combined EU ETS, CCAs and CRC coverage level is above the 90% threshold.
Article	A numbered paragraph appearing under a bold heading in Parts 1-9 of the draft order.
Associated Person	In assigning responsibility for emissions in CRC, there are certain special cases in which emissions arising from one organisation are assigned as the responsibility of another despite it not being a legal subsidiary. In this case, the organisation whose emissions are assigned to the responsible organisation ('principal') is referred to as the 'associated person'.
Automatic Meter Reading Meter	Automatic Meter Reading (AMR) meters have been developed for gas and electricity that is not subject to HHMs so that consumers can access data on consumption. There is a wide range of AMR equipment available, however, CRC will only capture AMR meters which can be read remotely.

Capped Phase	A capped phase is a phase in CRC which is subject to a limit on the total number of allowances made available to participants each year. The Introductory Phase is not a capped phase but all subsequent phases, starting with the second phase in 2013, will be capped phases.
Carbon Trust Standard	The Carbon Trust Standard certifies that an organisation has genuinely reduced its carbon footprint and is committed to making further reductions year on year. Assessment against the Standard is undertaken by independent third-party assessors, based on the evidence provided by the participating organisation. To achieve certification against the Standard an organisation must meet the requirements in all three areas by: measuring its key greenhouse gas emissions, showing good carbon management performance and being able to show emissions reduction over the last year – either on a total emissions basis, or on a relative basis (e.g. emissions/£m turnover).
CCA Residual Group Exemption	Exemptions for an entire participant based on energy use covered by a CCA or exempted as part of the CCA 'Group Member Exemption'.
Climate Change Act	The Act of Parliament which became law in 2008. The Act sets ambitious reduction targets of at least 80% by 2050 and at least 26% by 2020, against 1990 baseline emissions. Additionally, the Act sets binding five-year carbon budgets and establishes the powers to introduce CRC.
Climate Change Agreements	Climate Change Agreements relate to the Climate Change Levy (CCL), which was put in place to encourage users to improve energy efficiency and reduce greenhouse gas emissions. Climate Change Agreements (CCAs) allow energy intensive business users to receive a discount from the CCL in return for meeting energy efficiency or carbon saving targets.
Climate Change Levy	The Climate Change Levy (CCL) is a tax on the use of energy in industry, commerce and the public sector.
Combined Heat and Power	A combined heat and power station is one where heat or steam, which are by-products of the power generation process are not lost but supplied to consumers for various uses.
Committee on Climate Change	This independent statutory committee has been set up to advise the Government on its pathway to meeting its 2050 carbon reduction target.
Companies Act 2006	See http://www.berr.gov.uk/bbf/co-act-2006/index.html

Compliance Year	Each phase is made up of a number of compliance years. Each compliance year runs over the same period as a financial year. A participant must meet certain requirements for each compliance year, such as reporting and surrendering allowances.
Core Consumption	Core consumption is defined as the energy use measured by certain types of electricity and gas meters that are designated as Core sources.
Core Sources	Core sources are those that you are obliged to report about in CRC. They include: • all electricity consumed through HHMs (including pseudo HHM) • all electricity consumed through AMR meters • all electricity consumed though profile class 5-8 meters • all daily-read gas meters • all gas consumed through AMR meters • all non-daily metered gas consumption of more than 73,200 kWh per annum
Counter-party or customer to the Energy Supply Contract	The counterparty or customer to a contract is the party that is legally liable for fulfilling the terms of that contract. In the case of energy supply, the counterparty is the organisation financially liable for paying the bill.
CRC Emissions	These are the emissions of each participant for which it must purchase allowances each year. A participant determines the sources of energy which will contribute to its CRC emissions in the Footprint Report.
Daily-read Gas Meter	Daily-read gas meters are required for high volume gas users, defined as users consuming 58,600,000 kWh or more per year. There are currently around 2,000 daily-read gas meters in the UK. Gas consumed through daily read gas meters is a core source for CRC.
Designated Change	Large scale organisational change featuring the sale of participants or Principal Subsidiaries. Government will transfer the responsibility for participating in the scheme to the purchasing organisation. There are essentially two types of transfer of responsibility which would be accounted for by the scheme's 'Designated Change' mechanism; those where a participant or principal subsidiary is sold to, taken over or merges with a non participant; and those where the transfer occurs between existing participants.
Devolved Administrations	The Governments of Wales, Northern Ireland and Scotland

Energy Efficiency Accreditation Scheme	An accreditation offered by the Carbon Trust for organisations making energy use savings through improved management and energy efficiency measures. This scheme has now been replaced by the Carbon Trust Standard.
EU Emissions Trading System (EU ETS)	The EU ETS is a greenhouse gas emission trading scheme covering the energy intensive sectors of the EU Member States. Sectors covered by the system include: power generation, cement, glass, ceramics, steel, aluminium, and pulp and paper, which are termed "trading sectors". Additionally, the system covers emissions from large combustion installations, (larger than 20 MWthermal), commonly found in the food processing and pharmaceutical industries for example. Operators of installations that are covered by the system are obliged to monitor and report emissions of greenhouse gases (GHGs) from that installation and to surrender allowances equivalent to those emissions. EU ETS operates in phases. The first phase commenced in 2005 and we are currently in the second phase, which began at the start of 2008.
Evidence Pack	Participants in CRC must keep a record of their organisation's energy use and other documents supporting the information given to the administrator to prove: • Once per phase, their total energy use and the sources to be included in CRC, which must amount to at least 90% of that consumption • Each emissions year, their annual energy use for at least their CRC sources.
Exchequer	Exchequer refers to the functional part of the Treasury that collects and manages the UK Government's revenue. CRC allowance sales will be collected and transferred to the Exchequer before being recycled back to participants.
Footprint	Your footprint in CRC consists of all your emissions from energy use after participants have subtracted those from excluded activities and CCA exempt parts of your organisation.
Footprint Year	The footprint year is the first scheme year of each phase during which participants must monitor energy use across their organisation and establish the sources of energy use to be included in CRC for the forthcoming phase. In the Introductory Phase, the Footprint Year will run concurrently with the first compliance year of the phase - financial year 2010-2011.
Footprint Report	The footprint report will contain information about organisational energy use and the sources to be included in the scheme for that phase. The report must be submitted via an online tool by the last working day of July, after the end of the Footprint Year.

Grid Average Emissions	Grid electricity is generated from a range of fuel sources which produce different amounts of emissions per unit of electricity generated. Grid average is the average emissions per unit of all electricity supplied by the grid. Currently this grid average emissions factor is 0.537/MWh.
Half Hourly Market	This is the half hourly electricity market used by suppliers and generators to calculate the balance or imbalance, in what is generated and consumed, using electricity consumption information that is recorded half hourly.
Highest Parent Organisation	The highest parent is the body with ultimate control over an organisational group. Subsidiaries of the Highest Parent will be grouped together to form the CRC participant.
Information Disclosure	Organisations that have a settled half hourly meter but do not meet the qualification threshold for participation in CRC will have to disclose information on the HHMs they have and their electricity consumption to the administrator via the online registry.
Introductory Phase	The Introductory Phase is the first phase of CRC. It begins in April 2010 and lasts for three years.
Mandatory Half Hourly Meter	Mandatory Half Hourly Meters (HHM) supply electricity settled on the Half Hourly market and are required in situations where the average peak electricity demand over the three months of highest consumption within a year exceeds 100kW over the previous 12 months. Note; not all half hourly meters trading on the half hourly market are classed as mandatory.
Megawatt Hour (MWh)	A unit of energy equal to 1 million Watt hours or 1 million Joules per second consumed for a period of one hour.
Net Present Value (NPV)	The difference between the scheme's present value of costs and the present value of benefits, based on an agreed discount rate. The NPV figures quoted in CRC have been calculated using a commercial discount rate of 10% rather than the social discount rate of 3.5% that is normally applied to public policy.
Non-daily Metered Gas	Non-daily metering: All frequencies of metering less than daily are counted as non-daily metering: • For sites consuming between 73,200 and 293,000 kWh at least annual meter reading is required. • For sites consuming more than 293,000 kWh but less than 58,600,000 kWh, at least monthly meter reading is required.

Non-participant	An organisation that does not qualify for CRC. If you possess a half hourly electricity meter settled on the half hourly market but do not meet the other CRC qualification criteria you must make a non-participant information disclosure to the administrator. The only exception to this rule is government departments, all of which will be included in CRC regardless of whether they meet the qualification criteria for CRC.
Ofgem	The Office of Gas and Electricity Markets regulates the electricity and gas markets in Great Britain.
Participant	An organisation that qualifies or is otherwise required to participate, and must register under CRC. A participant must comply with all requirements of the scheme such as reporting emissions, and purchasing and surrendering allowances.
Performance League Table	A published table detailing the relative performance of all participants in CRC against the various weighted metrics: absolute metric, early action metric and Growth Metric.
Primary Member	The organisation within an organisational group nominated to act on behalf of all parts of that group and who is taken as representing that group in its dealings with the administrator.
Principal Subsidiary	Any subsidiary of an organisation which would meet the qualification criteria for participation in CRC in its own right were it not part of a larger organisation.
Profile class 5 – 8 meters	The profile classes 5 – 8 represent the categories corresponding to the highest energy users that do not qualify for half hourly metering. A profile class is defined under the Balancing and Settlement Code as: 'a classification of profiles which represents an exclusive category of customers whose consumption can be reasonably approximated to a common profile for Settlement purposes'.
Pseudo Half Hourly Metering	Pseudo Half-Hourly Metering is a technique for calculating half hourly electricity consumption where the supply is unmetered. It is calculated using activity data for an historic period and is commonly used to monitor the electricity consumption of street furniture such as street lights and traffic lights. This data can be used for settlement purposes.
Qualification Period	The period during which electricity consumption through all half hourly meters must be monitored to determine whether your organisation qualifies to participate in the forthcoming phase of CRC. This Qualification Period for the Introductory Phase is the 2008 calendar year.

Registration Deadline	The date by which organisations that qualify for the scheme must register with the scheme administrator via an online tool. For the Introductory Phase this period is the end of September 2010.
Registry	CRC will be administered online via a specially designed website. Participants will register, report, buy and sell allowances and communicate with the administrator via this online system.
Renewables Obligation	The RO is the main support scheme for renewable electricity projects in the UK. It places an obligation on UK suppliers of electricity to source an increasing proportion of their electricity from renewable sources.
Renewable Obligation Certificates (ROCs)	A Renewables Obligation Certificate (ROC) is issued to an accredited generator for eligible renewable electricity generated within the United Kingdom and supplied to customers within the United Kingdom by a licensed electricity supplier.
Residual Measurement List	Participants are required to ensure that at least 90% of their total footprint emissions are covered by a combination of either EU ETS, CCA or CRC. In those instances where the required 90% is not met, participants will need to include other energy sources in CRC and record this inclusion on a 'residual measurement list'. The list is also required in those instances where participants voluntarily decide to add additional energy sources in CRC.
Residual sources	Residual sources are any energy use other than the CRC core sources.
Responsible Person	In the situation described under 'associated person', the responsible person refers to the organisation that is assigned responsibility for the associated person's emissions.
Revenue Recycling	All revenue raised from the sale of allowances every April is returned to participants in the form of a recycling payment to each participant. The payment is in proportion to their 2010/11 emissions adjusted by a bonus or penalty factor linked to performance in the league table. The revenue recycling occurs six months after the end of each sale, in October.
Safety Valve	The safety valve is a mechanism by which participants can buy additional allowances from the Administrator throughout the year. The price will be linked to the EU ETS price of carbon. This will prevent the price of CRC allowances ever going significantly higher than the EU ETS price of carbon for any length of time.
Secondary Market	The secondary market refers to any trade in allowances that takes place between participants or with third parties, i.e. all

	trading other that the Government's sale/auction of allowances.
Subsidiary	Defined in line with the Companies Act 2006, subsidiaries in CRC will be those that meet the tests enshrined within the s1162 of the Act. (although the section is modified slightly in the context of CRC).
Tick Box Questions	Participants are asked to voluntarily supply additional information in the form of three simple tick box questions around their public disclosure of information. The responses are intended to provide context for the league table but will not affect a participant's ranking in the league table or the revenue recycling process
Transport Exemption	The Transport Exemption is based on the amount of half hourly electricity an organisation has included in the scheme following the removal of energy use for transport purposes
Voluntary Half Hourly Meter	Voluntary Half Hourly (VHH) meters are the same type of meters as the mandatory 100 kW HHM described above, however as the title implies they are installed on a voluntary basis at sites below the 100kW threshold. These meters are not widespread, and in most cases were installed because an organisation wanted their electricity settled on the HH market or because they wanted to collect data on their electricity consumption for energy management purposes.
UK Emission Trading Scheme (UK ETS)	The UK Emissions Trading Scheme was the world's first economy-wide greenhouse gas emissions trading scheme. The UK ETS ended in December 2006, with final reconciliation completed in March 2007.