Real Estate, Energy and Climate Change

July 2011

NEXT STEPS FOR SIMPLIFYING THE CRC ENERGY EFFICIENCY SCHEME

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On 30 June 2011, the UK's Department of Energy and Climate Change (DECC) outlined the main changes it proposes to make to the CRC Scheme to make it simpler, particularly for Phase 2.

Interested parties have until 2 September 2011 to comment on those proposals. DECC will then consult and draft legislation in February 2012. The intention is for the changes to the CRC to come into force in April 2013, to coincide with the commencement of Phase 2.

A summary of the main proposals are:

- On a review of evidence available, the Government considers that a simplified CRC Scheme remains the most effective way, alongside the Green Deal, to achieve greater energy efficiency and contribute to meeting the UK's carbon budgets in the relevant sectors.
- To reduce the overlap with other schemes, so for instance businesses covered entirely by CCAs would not need to register.
- To provide greater business certainty by introducing two fixed price sales a year (one forecast and one retrospective), rather than auctions of allowances in a cap system in Phase 2. There will be a cheaper forecast forward sale and a more expensive retrospective sale. The fixed price sale of allowances in Phase 1 will be retrospective only, with the first sale taking place in 2012 as previously announced. Participants can purchase in the retrospective sale or from other participants who have excess allowances in a secondary market for allowances.
- To replace the current qualification rules with a simpler process focussed only on settled half hourly electricity meters. There may be a requirement for the level of the threshold for the Scheme to be revisited to ensure the bulk of coverage of the Scheme is retained. The analysis of the Footprint and Annual Reports submitted by the end of July 2011 will examine the level of threshold.

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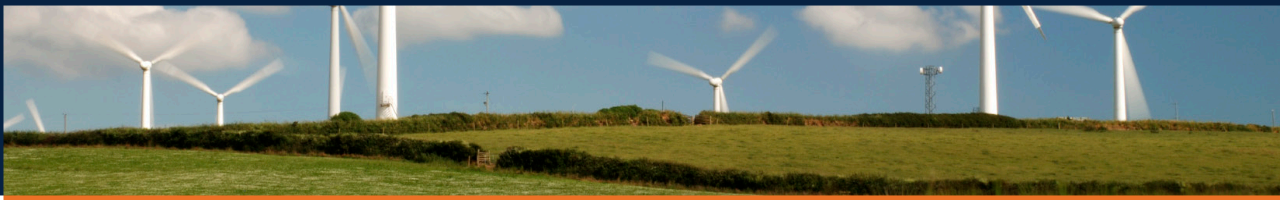

- To change the year-on-year compliance elements of the CRC Scheme by reducing the number of fuels covered by the scheme from 29 to 4 being electricity, gas, kerosene and diesel with the inclusion of the latter two where used for heating purposes. The removal of the 90% applicable percentage rule which will enable the commensurate removal of the Footprint Report and Residual Measurement list requirements which effectively require participants to monitor all their minor fuels at all their sites and to maintain a list of fuel sources to meet the 90% level.

- To change the current data retention requirements so that records are retained for 6 years, as opposed to 12 years, after the compliance year to which they relate.

- To amend the current rules to ensure that when they are applied to trusts, the Scheme will allocate responsibility for CRC to an entity with a genuine commercial interest in the property and its use and with access to the information and resources necessary for effective and efficient compliance with the Scheme.

- To simplify the organisational rules which currently can require businesses to participate in ways which do not necessarily reflect their natural business structures and processes. This issue has been particularly recognised in connection with large and complex organisations including private equity funds, trusts and joint ventures, and where the parent is based overseas. The Government proposes to allow overseas parents to disaggregate their UK subsidiaries rather than imposing the burden of collecting data, reporting and buying allowances on one UK account holder. The disaggregated entity would then participate in the scheme as a separate entity. DECC is also considering the organisational structure change rules ("designated changes") with a view to simplifying these to ensure there is no emissions loss when undertakings/assets and their associated CRC liabilities are transferred between groups.

Areas where the Government is not proposing changes:

- The Government is not proposing to modify the rule on claiming extra benefits for renewable electricity generation as, in its view, these are already subsidised.

- The Government does not propose to reform the landlord/tenant rules which state that where landlords are responsible for supplies of energy to their tenants the landlords are responsible (tenants are responsible if they arrange and receive the supplies themselves). It remains of the view that the most cost effective energy efficiency measures can be implemented by the landlord rather than the tenant. However, the Government is considering revisiting the landlord/tenant rules where the landlord owns only the land that the structures are built on by the tenant, the landlord supplies the energy but the tenant is a sole occupant of the building and is wholly responsible for its maintenance and hence can control its energy performance.

Further details of the Government's proposals are published in the DECC's Simplifying the CRC Energy Efficiency Scheme: Next Steps (http://www.decc.gov.uk/assets/decc/11/cutting-emissions/crc-efficiency/2088-simplifying-crc-next-steps.pdf)

For more information, please contact Christian Taylor, Partner, on +44 (0)20 7264 8034 or christian.taylor@hfw.com, or Annette Roberts, Associate, on +44 (0)20 7264 8160 or annette.roberts@hfw.com, or your usual contact at HFW.

For further information, please also contact:

Brian Gordon
London Partner
T: +44 (0)20 7264 8284
brian.gordon@hfw.com

Lawyers for international commerce hfw.com

HOLMAN FENWICK WILLAN LLP
Friary Court, 65 Crutched Friars
London EC3N 2AE
T: +44 (0)20 7264 8000
F: +44 (0)20 7264 8888