

Carbon Reduction Commitment Update

The Department for Energy and Climate Change (DECC) has published a formal response to the Carbon Reduction Commitment (CRC) consultation¹. The reply includes many changes to the scheme that was outlined in the consultation documents in March 2009.



Firstly, the scheme will now be known as the “Carbon Reduction Commitment Energy Efficiency Scheme”. However, there are much more important changes – particularly for the property industry. This guide will highlight some of the important changes specifically with regards to the property market (with page numbers noting places within the consultation reply document).

Landlord and Tenants

The rules on how the owners of buildings manage the burden of the CRC, and how the scheme is passed on to occupiers was a point of discussion in the consultation (Section 2.7 of the Consultation²). The reply states that CRC obligation remains with building owners (p. 35), and that transfer is not permitted – even on a voluntary basis. The DECC policy is as follows:

“Government aims to encourage landlord organisations to work collaboratively with their tenants to influence the way tenants use energy. Considering that in most cases there is considerable potential for landlords to influence tenants’ energy consumption, Government believes that the existing policy remains the most effective option to drive emissions reductions. It is also the most administratively simple approach.” (p. 35)

An additional provision will be included in the CRC Order (not yet released) that requires the occupiers to cooperate with the building owners (p. 36). The means to which this cooperation is to exist will not be prescribed, leaving the matter to the individual arrangements between companies. However, the reply does explicitly state that the building owners will be able to pass on the cost and benefit of the CRC to tenants, and suggests provisions in new leases should allow for such engagement.

Organisational Structure, Joint Ventures (JVs) and the Definition of “Supply”

There are some important changes as to how companies can structure themselves within the CRC. Companies under the “Parent Company” umbrella are now called “Significant Group Undertakings”³ (SGU), and are now able to volunteer as separate entities in the CRC (p. 21). If a SGU is registered separately, it will then be treated as a separate full participant for the remainder of the phase, and will not be able to change its status unless affected by a “Designated Change” such as a sale of the property.

There are some subtle changes in how supply is understood⁴ which might alter how some JVs measure inclusion in the CRC. Joint Ventures that are without a majority shareholder (ownership is less than 50%) are to potentially exist independently in the CRC. This was in the original consultation, but the change in definition in supply means that a company that does not have majority share of a JV but who is counterparty to the supply will still be responsible for the whole entity – and other shareholders are not responsible. See Table 1 for an illustration of two scenarios where minority ownership can have different implications depending on which company – the JV company name or the owner company name – is responsible for the supply contract.

¹ DECC, “Carbon Reduction Commitment: government response and policy decisions”, 7th October 2009, <http://tinyurl.com/CRCreply>.

² DECC, “Consultation on the Draft Order of the Carbon Reduction Commitment”, 6th March 2009, <http://tinyurl.com/CRCconsult>.

³ The March 2009 consultation referred to these groups as “Principle Subsidiaries”. This term is no longer being used.

⁴ There are other implications to this change in definitions – particularly to do with CHP and district heating, see pp. 49-51.

Table 1 - Joint Ventures and Supply

	Shopping Centre A	Shopping Centre B
Ownership by Example Company	49%	35%
Name on Energy Supply Contract	"Shopping Centre A"	"Example Company"
Status in CRC	Exists independently, if HHM consumption is over 6,000MWh	Under "Example Company" in the CRC. If over 6,000MWh, as a SGU ⁵

Changes to the League Table

There are some large changes to League Table operation, specifically to the Introductory Phase and the Early Action Metric (EAM). In the consultation, the EAM was originally proposed to be made up of equal share between two elements: "voluntary" Automatic Meter Reading systems⁶ and the Carbon Trust Standard (CTS) certification. The CTS certification has been expanded to include "Carbon Trust Standard or Equivalent". The consultation response document lists a number of criteria that an independent certification would require to meet this "equivalent" status (p. 70). At this point, no alternative certifications are known to exist.

There is an important change in the initial allowance purchase due in April 2011 (p. 66). This was intended to be a double purchase, for retrospective 2010 allowances and a 2011 prediction. This has been changed and 2010 will now only be a reporting year, and will not require the purchase of allowances. This means that in April 2011 allowances will only be required for the 2011/12 year emissions.

The 2012 League Table positioning operation has also been altered, with the EAM being increased to have a 40% (from 20%) weighting on the League Table score. This increases the impact of the EAM on the scheme (p. 73).

Recognition of Onsite Renewable Energy

The reply to the consultation includes marginally increased recognition of onsite renewable energy. In the original consultation, the focus on energy efficiency meant that onsite renewable energy sources did not have any impact on the CRC. In the reply, the Government outlines a plan to publish data about energy from onsite renewable sources on the League Table (p. 74). However, this will not influence League Table position.

Conclusion

DECC has improved a number of definitions and refined several structures of the CRC with its reply, and will be publishing a revised User Guide at the end of 2009. The response document includes an Appendix with a number of examples of ownership structures that are more complex than had previously been available. The property industry must still wait to see what the Government intends to do to assist in the "cooperation" between building owners and occupiers, which is to be outlined in the CRC Order – also due at the end of the year.

For more information about Upstream Sustainability Services and the Carbon Reduction Commitment Energy Efficiency Scheme, please contact

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⁵ Note that as an SGU, it could then therefore opt to register independently, as noted in Section 1.2.

⁶ The reply to the consultation also clarifies the definition of "voluntary AMR" on p. 72.