

CRC Sustainability - Are You Ready to Commit?

The Carbon Reduction Commitment (or CRC) is the scheme to reduce carbon emissions through energy efficiency recently launched by the Government and administered by the Environment Agency. Initially, the scheme will apply to larger energy users requiring them to disclose full details of their carbon emissions and then to work towards reducing them by imposing financial incentives and penalties. The scheme will require organisations to purchase allowances annually to cover their projected emissions but who will then receive a recycling payment based on reductions or specific actions. The level of repayment will be determined by reference to relative performance within a league table of the participating organisations and will result in some being rewarded and others being penalised.

Phase 1 of the scheme commenced on 1st April 2010 and requires participants to report their carbon emissions for the year to 31st March 2011. Participants will then be required to purchase allowances in April 2011 to cover their projected CRC qualifying emissions for the financial year 2011/12 at a fixed price of £12 per tonne of CO₂. Allowances can then be traded by participants to cover any surplus or deficit. The CRC is mandatory and will require many organisations within the UK to participate fully in the scheme, others will simply be required to disclose information. This distinction is dependant upon the level of their metered supplies of electricity.

The key criterion is that **any** organisation who received an electricity supply through at least **one** Half Hourly Meter (HHM) settled on the Half Hourly Market during **2008** must do something under the scheme. Generally speaking a HHM is mandatory for supplies of electricity where the average peak demand has exceeded 100 KW within 3 of the previous 12 months (examples of premises likely to require a HHM may include a large motor dealership or a supermarket). Consequently, electricity suppliers already know where most of these meters are, however, some organisations may have chosen to install such meters voluntarily for energy control reasons.

The Environment Agency wrote to users of HHMs during 2009 in order to introduce the CRC scheme and allow those organisations to make preparations for the start of the scheme. There is, however, **no guarantee** that all organisations or the relevant parts of an organisation have been contacted and with compliance being mandatory there will be potential **fines for late or non compliance**. It is estimated that approximately 5,000 organisations will be required to fully participate in Phase 1 with a further 15,000 or so being required to make an Information Disclosure. In all cases the required action for Phase 1 must be taken by **30th September 2010**.

Full Participation

Organisations using more than 6,000 Megawatt Hours (MWh) through all HHMs during 2008 must complete their registration online. Thereafter, preparations must be made to submit the relevant information on CO₂ emissions. There is also the option of taking certain early action measures which can help to improve league table performance in Phase 1 of the scheme.

Information Disclosure

Organisations using more than 3,000 MWh but less than 6,000 MWh through all HHMs during 2008 must disclose information in the required format online. No further action is required other than to notify the administrator of certain changes. Similar information is likely to be required during future phases of the scheme.

Limited Information Disclosure

Organisations using less than 3,000 MWh through all HHMs during 2008 must disclose a limited amount of information online.

Phase 1 (known as the Introductory Phase) lasts for three years, however, Phase 2 (known as a "Capped Phase" with some key differences relating to trading) will last for 7 years and the qualification year will be the financial year 1st April 2010 to 31st March 2011. Organisations who are caught by the scheme should already be acting to meet the registration and disclosure deadline for Phase 1 or risk being fined. Organisations who have taken no action to date should seek **urgent advice** on the steps they need to take in order to comply.

The full impact of CRC is unclear at this time but we foresee the following potential issues flowing from the scheme:

- Depending on the sums of money involved, organisations close to the qualification threshold of 6,000 MWh may reorganise their operations in order to avoid full participation in future Phases. This may include the rationalisation of property assets; property decisions taken now may affect qualification for Phase 2.
- Landlords are responsible for the supply of electricity and gas to common areas of buildings, under CRC and may also be caught where they are responsible for supplies to the whole building. As well as lease drafting and potential service charge issues, there will be additional due diligence to consider in connection with the acquisition or disposal of participating organisations or the property assets thereof.
- In certain cases franchisors will be responsible for the emissions of their franchisees, who will be required to provide relevant information to assist the franchisor.
- Longer term decisions relating to the specification of new build and refurbishment projects are likely to be affected where the end user is, or could be a CRC participant.
- The scheme may result in premium values being achievable on energy efficient buildings.
- In our view, there is a possibility that in the future the scheme could be widened to include those organisations who are currently only required to make an information disclosure.
- Actions being taken now to reduce emissions are achieving immediate and measurable results for participating organisations.

For an informal discussion in respect of matters relating to the CRC energy efficiency scheme please contact Geoff Sayer, who is a Chartered Environmentalist and part of Rapleys LLP's Sustainability Team.

Geoff Sayer

01480 371408

07769 671488

grs@rapleys.co.uk

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0870 777 6292
www.rapleys.co.uk

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