CRC Energy Efficiency Scheme

Department of the Environment
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Llywodraeth Cynulliad Cymru
Welsh Assembly Government

The Scottish Government

Department of Energy & Climate Change

Consultation on the Draft Order to Implement the Carbon Reduction Commitment

Government Response and Policy Decisions

7 October 2009

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This document is available on the DECC website at

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

This consultation has been conducted in accordance with the Government Code of Practice on Consultation.

Published by the Department of Energy and Climate Change.

Executive Summary

The Carbon Reduction Commitment (CRC) is a new regulatory incentive to improve energy efficiency in large public and private sector organisations. Evidence and analysis from Government and others consistently shows that there are significant opportunities for improving energy efficiency in large organisations which will generate savings well above the cost of implementing them. However, those steps are not yet being taken. Government therefore took the decision to require large electricity users to become part of the scheme from 1 April 2010.

The scheme will raise the profile of energy efficiency across the business and public sectors and help large energy users achieve those financial savings. Given the primary focus on achieving emissions reductions by increasing energy efficiency, the Carbon Reduction Commitment will now be known as the CRC Energy Efficiency Scheme (CRC). CRC is designed to complement existing Government policies. Therefore, emissions that are already regulated by a Climate Change Agreement or the EU Emissions Trading System will not be targeted under CRC.

The key principles guiding the CRC are fair, open and transparent incentives to the adoption of energy efficiency measures. Those Participants who have made and continue to make significant effort to improve energy efficiency will benefit from participation in the scheme by receiving higher recycling payments. However, the principal benefit to all Participants in improving energy efficiency and reducing energy consumption will be significant reductions in their energy costs, far beyond the transfers in the scheme itself. Furthermore, by saving energy, organisations will also cut their carbon emissions, helping to meet UK's the ambitious emissions reduction targets and reduce the risk of catastrophic climate change.

Government is grateful for the 276 responses received to our third consultation on the Scheme. Government has analysed these and listened to business, the public sector and environmental NGOs in the consultation workshops and other meetings. This has helped Government understand how best to shape the CRC to reward those who become more energy efficient and, as a result of feedback received, several aspects of the scheme have been amended. This document provides the Government's response to the consultation, and outlines the changes and developments to the scheme that will be implemented.

Summary of conclusions

Chapter 1 provides an introduction and sets the context for the document.

Chapter 2 sets out what constitutes an organisation for the purposes of the scheme, and treatment of various types of organisation. Responses demonstrated

considerable support for most aspects of this policy, and did not foresee any unintended consequences of the Draft Order. In response to some concerns, Government has decided that large subsidiaries will be able to participate separately from their organisational group. There are also amendments to the rules on organisational changes that involve Government Departments. A revised definition of franchising has been developed and this chapter also clarifies how schools and collegiate universities will participate. The exclusion for domestic accommodation from CRC is also outlined in this chapter.

Qualification criteria and the registration process are covered in Chapter 3. The majority of respondents demonstrated support for the policy and the drafting of the Order. Therefore the policy has not changed. However, in response to requests for clarification, further details of the information requirements for qualification and registration are provided, including the decision to allow use of estimates for determining total half hourly electricity consumption.

Chapter 4 outlines the Government Response on the emissions coverage of CRC, including details of excluded activities, emissions calculation and definitions of metering. Responses demonstrated strong support for most aspects of the policy. However amendments have been made to reflect concerns around definitions of automatic meter reading and pseudo half hourly metering. A revised definition of onward transmission is provided as well as an expanded definition of supply which replaces the counterparty rule to be used for determining responsibility for energy supplies in CRC. Government is keen to keep administrative burdens on Participants proportionate and has therefore decided to allow Participants to report emissions covered by the EU Emissions Trading System (EU ETS) or a Climate Change Agreement (CCA) using data from the most recent reporting year for those schemes rather than the CRC compliance year. Government's decision on the treatment of schools' energy use is also outlined. Government will continue to keep reporting requirements under review as the scheme progresses to ensure burdens are proportionate and are in line with encouraging Participants to monitor their energy use closely.

The Government's response on exemptions from the scheme is provided in Chapter 5. In general, respondents supported the Government's proposals on exemptions. However, in light of stakeholder responses, the approach to the transport exemption has been revised and a new definition of transport has been developed to ensure organisations can accurately assess which emissions from transport must be excluded. Organisations with more than 25% of their emissions covered by a Climate Change Agreement will still qualify for an exemption. In response to some concerns about additional administrative burden, the Climate Change Agreement exemption will now be based on qualification year data so that exempt organisations do not have to compile a Footprint Report.

The response on the policy around purchasing allowances, revenue recycling and the energy efficiency performance league table is covered in Chapter 6. There was broad support for the Government's proposals and Draft Order covering these areas. Some stakeholders expressed concern about the impact on cash flow of the double sale in April 2011. Government has therefore decided, in order to facilitate the smooth introduction of the scheme, that the first compliance year of the Introductory Phase will be a reporting-only year. In April 2011 Participants will only have to buy allowances to cover the year 2011/12. Other elements of the market design policies are largely unchanged. However, in response to representations on the Early Action metric, Government has decided that equivalent accreditations to the Carbon Trust Standard will count towards the early action score and the Early Action metric will be given greater weighting in the second year of the scheme. Government has also introduced an additional tick box question on employee engagement to reduce emissions in order to encourage behaviour change throughout Participant organisations.

Chapter 7 covers the Government's response on compliance, reporting and record keeping. Many areas of this policy received strong support. However, a large number of respondents requested clarifications on reporting and compliance. These have been noted and will be covered as part of guidance to be issued to Participants in due course. Several respondents also identified additional fuels or emissions factors. A rationale for the chosen emissions factors is provided in this chapter and a number of additional fuels will now be included in the CRC fuels list. Government's position on the application of a 10% uplift to estimated energy supplies is also clarified. A significant minority of respondents felt strongly about the treatment of renewable electricity generation and Government has carefully considered the options. Government has concluded that providing direct incentives for renewables in CRC would risk displacing energy efficiency efforts, which are the primary objective of CRC.

Renewables are incentivised by a range of Government measures including the forthcoming Feed In Tariff (or Clean Energy Cashback). As the Feed In Tariff (FIT) scheme, Renewable Heat Incentive and CRC are implemented in parallel Government will keep the interaction of the different mechanisms under review and the incentives for investment in renewables and energy efficiency under review. However, Government agrees with a number of respondents that it would be beneficial to show how CRC Participants are also taking up the possibilities offered through these complementary renewables incentives. Therefore details of a Participant's onsite renewable energy generation and use will also be published.
The policy on audit and enforcement was generally supported by respondents to the consultation. However concerns were raised around the level of some penalties and the way in which enforcement will be applied. Chapter 8 outlines the revised policy on enforcement which includes a number of changes to the civil penalties and details of how discretion will be used in applying penalties. As a result of feedback on

appeals Government has also extended the time to lodge an appeal from 20 to 40 working days.

Fees and charges to cover CRC have remained broadly unchanged. Chapter 9 provides a response to the issues raised around the levels of charges and outlines the amendments that have been made to the charges for identity checks.

CRC will begin on 1 April 2010. The Order to implement the scheme is being substantially revised in the light of the consultation and the opportunity has been taken to simplify its structure. It will be published towards the end of the year when it enters Parliament. Guidance for scheme Participants will be published by the end of October by the Environment Agency in conjunction with the scheme administrators in the Devolved Administrations, and after consultation with the Devolved Administrations and DECC. An updated basic User Guide will be published towards the end of the year.

The registration window for CRC will begin in April 2010, and last until the end of September 2010. Potential Participants, including those who will fall below the qualification threshold but need to submit information, are encouraged to familiarise themselves with the guidance to understand how their group structure should be determined for the scheme and to act early to gather group wide information together to prepare for registration next spring.

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List of Acronyms

AMR	Automatic Meter Reading
BOS	Basic Oxygen Steel
CCA	Climate Change Agreement
CCL	Climate Change Levy
CHP	Combined Heat and Power
CRC	CRC Energy Efficiency Scheme (formerly known as the Carbon Reduction Commitment)
DECC	Department of Energy and Climate Change
EA	Environment Agency
EPBD	Energy Performance of Buildings Directive
EUA	European Union Allowance
EU ETS	European Union Emissions Trading System
FIT	Feed In Tariff
FOI	Freedom of Information
HHM	Half Hourly Meter
ID	Identity
IPCC	Intergovernmental Panel on Climate Change
JV	Joint Venture
kWh	Kilowatt Hour
MoG	Machinery of Government
MWh	Megawatt Hour
NHS	National Health Service
NIAUR	Northern Ireland Authority for Utility Regulation
NIEA	Northern Ireland Environment Agency
NPV	Net Present Value
PFI	Private Finance Initiative
PS	Principal Subsidiary
RO	Renewables Obligation
ROC	Renewables Obligation Certificate
SEPA	Scottish Environmental Protection Agency
SGU	Significant Group Undertaking
tCO_2	Tonnes of Carbon dioxide
UK PIA	United Kingdom Petroleum Industry Association
VAT	Value Added Tax

Chapter 1: Introduction

The Carbon Reduction Commitment (CRC) is a new regulatory incentive to improve energy efficiency in large public and private sector organisations and therefore reduce the UK's carbon emissions. The scheme, starting in April 2010, is designed to create a shift in awareness, behaviour and infrastructure. The scheme will affect approximately 20,000 organisations, with around 5,000 of these required to participate in the scheme. It is the Government's intention that overall, CRC will deliver reductions of at least 4.4 million tonnes of UK CO_2 emissions per year by 2020. By driving energy efficiency, the CRC will also deliver emissions reductions cost-effectively, saving Participants' money, and enabling sustainable growth. This will yield a benefit in reduced energy costs to Participants of around £1billion each year by 2020.

Given the primary focus on achieving emissions reductions through increased energy efficiency, the Carbon Reduction Commitment will now be known as the CRC Energy Efficiency Scheme (CRC).

CRC is a UK wide scheme and the policy has been developed by the Department of Energy and Climate Change, the Scottish Government, the Welsh Assembly Government and the Department of the Environment Northern Ireland working in partnership. In this document, Government refers collectively to the UK and Devolved Administrations.

Consultation of the Draft Order to Implement CRC

On 12 March 2009, Government launched a 12 week consultation on the Draft Order to Implement the Carbon Reduction Commitment[1]. This was the third consultation on the scheme. The first consultation assessed the appropriate mechanism to achieve emissions reductions in the sector, and as a result, the Government decided to develop the CRC. The second consultation explored options for the scheme design and implementation. This third consultation asked for feedback on the draft legislation to implement the scheme and also on a number of outstanding policy issues.[2]

The deadline for responses was 4 June 2009. Government received a total of 276 formal responses. Consultation workshops were held in Belfast, Cardiff, Edinburgh, London and Manchester as part of the consultation process. More than 900 people in total attended these workshops.

[1] The March 2009 consultation document is available at http://www.decc.gov.uk/en/content/cms/consultations/crc/crc.aspx

[2] The first and second consultations are available at http://www.decc.gov.uk/en/content/cms/what_we_do/lc_uk/crc/Policy/Policy.aspx

Respondents to the consultation included: business; local Government; environmental organisations; public sector organisations; industry; energy suppliers; advisory organisations; individuals and other interested parties. Government welcomes these responses and would like to thank all those who took the time to submit a formal response, or participate through events held during the consultation period. A summary report of responses to the consultation is published alongside the Government Response and is available on the DECC website[3]. Reports from the consultation workshops are also available on Government websites.[4]

All responses, both formal submissions and those recorded at the consultation events, have been analysed carefully. Overall, the responses to the consultation were largely positive and in the majority respondents agreed with our policy proposals and that the Draft Order delivered the policy intention. The figures below show yes/no responses to both whether the drafting of the Order resulted in unintended consequences and also whether respondents agreed with policy proposals. Yes' answers on the Draft Order questions indicate that there may be unintended consequences. 'Yes' answers for policy questions indicate support for Government's proposals. '

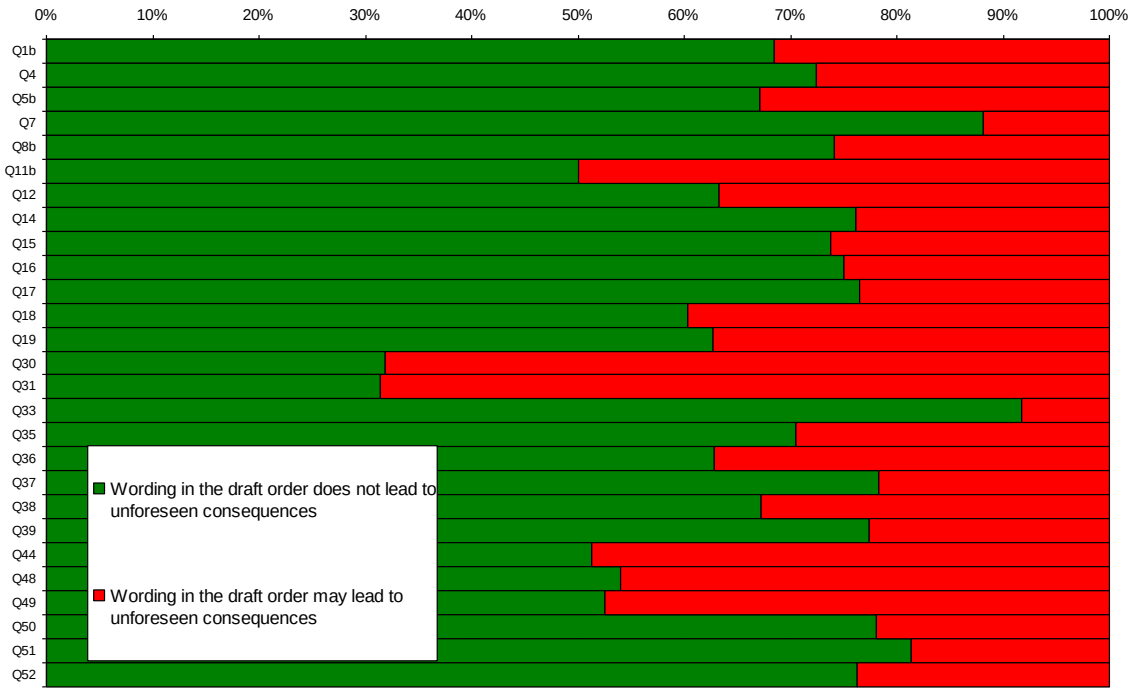


Figure 1: Responses to Drafting Questions

[3] http://www.decc.gov.uk/en/content/cms/consultations/crc/crc.aspx
[4] DECC workshops: http://www.decc.gov.uk/en/content/cms/what_we_do/lc_uk/crc/crc.aspx
Devolved Administrations and Environment Agency workshops: http://www.environment-agency.gov.uk/business/news/104746.aspx

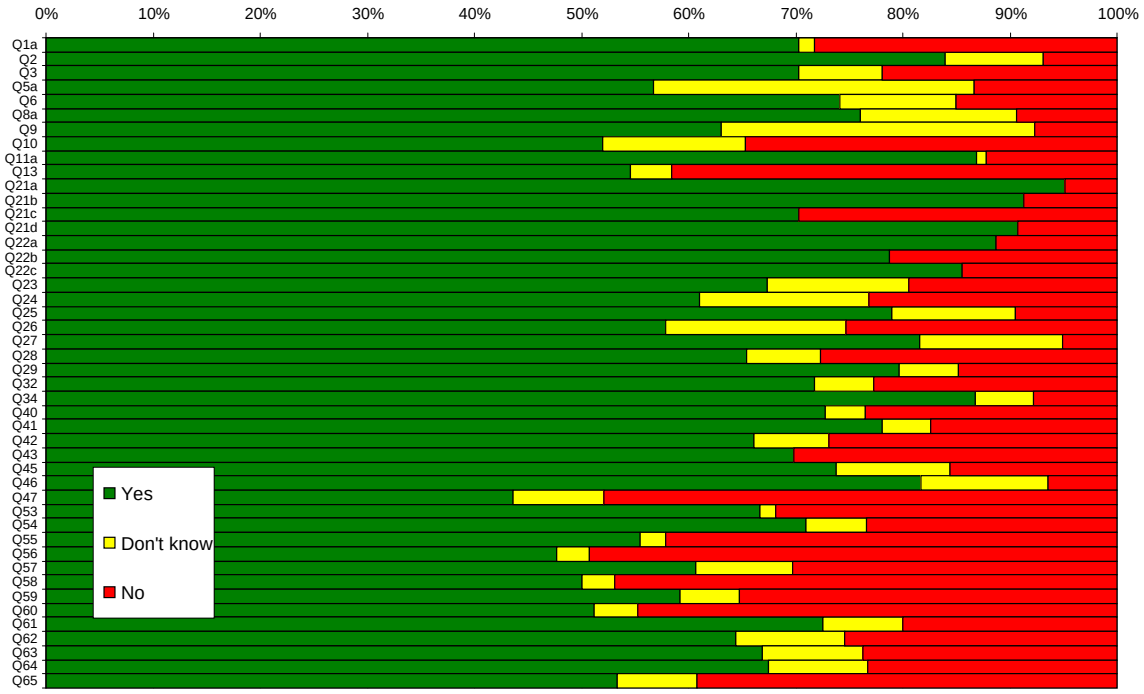


Figure 2: Responses to Policy Questions

Areas receiving least agreement with Government proposals included the calculation of the league table; the proposed approach applying a 10% emissions uplift to estimations; and the penalties imposed for failure to provide an Annual Report and incorrect reporting.

The Government Response

The Government's response to the consultation is set out in this document. The document is organised into chapters, addressing topics in the same order as the chapters of the consultation. Each chapter of this document provides a summary of responses to each question and identifies the key issues raised in relation to the question. The Government's response is then stated, indicating either there has been a change to the policy position or it remains as stated in the consultation document. Where respondents raised an issue concerning one aspect of the scheme as part of a response to a question on a different aspect, these have been dealt with in the most appropriate section. Where questions received similar responses, these have been grouped together to avoid repetition.

This document does not attempt to respond individually to every comment received during the consultation period but responds to significant issues that respondents raised. However, all points raised during the consultation have been taken into account when considering whether changes to the policy were required. In this document the term 'consultation' refers to the most recent March 2009 consultation on the Draft Order to implement CRC, unless otherwise stated.

A summary list of policy changes and developments is provided below. Key changes to note are that the first year of the scheme will be a reporting only year and there is a new definition of supply which replaces the counterparty rule for assigning responsibility for energy consumption.

Next Steps

The CRC will start in April 2010. By the end of October, the Environment Agency as scheme administrator will be issuing the first set of guidance documents covering how to assess qualification, how to identify the organisation structure, how to assess exclusions and exemptions, and how to register as a Participant or information declarer. Notification will be sent to all billing addresses for half hourly meters settled on the half hourly market, and the guidance documents will be available on the Environment Agency website. Further guidance on other areas of the scheme will be provided in due course. The Environment Agency intends to publish guidance on each area of the scheme six months before an organisation will need to take actions covered by that guidance. Government also published a basic User Guide at the time of the consultation. This will be updated during the autumn to reflect the policy changes outlined in this response.

The Draft Order to implement CRC, on which Government consulted, has been revised to reflect policy changes, respondents concerns on the drafting, and to simplify the legislation. The Order will be laid before Parliament towards the end of the year and will be made publicly available at this point. The accompanying allocation regulations, which set out the details of the Government allowance sales were reviewed as part of the same consultation process. They are being similarly revised and are likely to be laid before Parliament and made publicly available early in 2010.

The primary purpose of the CRC is to incentivise energy efficiency and the guiding principles of the scheme are that it should do so in a fair, open and transparent manner. Following implementation of the scheme in April 2010, Government will continue to monitor all aspects of the scheme with these principles in mind and in the light experience of the scheme's operation, in order that any changes that are necessary may be made in due course. Government is also undertaking analysis on the appropriate level of the cap and will receive advice on this from the Committee on Climate Change next year. Government intends to announce details of the emissions cap in 2012.

Summary of Policy Changes and Developments

Policy Changes
Parents and Subsidiaries. Government has decided to use the wider definition of 'undertaking' for the purposes of the scheme enshrined in section 1161(1) of the Companies Act and to expand the definition to include unincorporated associations which carry out charitable activities. See section 2.1.
Significant Group Undertakings. Significant Group Undertakings were formerly known as Principal Subsidiaries. A Participant will have the option to nominate any Significant Group Undertaking (SGU) that it wishes to participate separately, either at registration or if it purchases an SGU. If the SGU consents to this separate participation, and registers accordingly, it will be treated as a separate Participant for the remainder of the phase and will be required to comply with the same obligations as any other Participant. See section 2.2.
Definition of Public Sector Organisations. Organisations designated as a 'public authority' in the Freedom of Information (FOI) Act 2000 and the Freedom of Information (FOI(S)) Act (Scotland) 2002 will participate in CRC on the basis of their individual FOI/FOI(S) listing, unless they are legally part of another body, in which case they would participate as part of that parent body. See section 2.4.
Treatment of companies with public sector ownership. Any company that is wholly owned or controlled by a Government department, or devolved equivalent, will participate as a group member with their owning department. Any company owned by other classes of public body, or partially owned with a non-controlling influence by a Government department, will participate individually in CRC where it meets the qualifying electricity threshold. See section 2.4.
Government Relevant Decisions. Government departments, and their devolved equivalents, may disaggregate any part of their department, including wholly owned or controlled companies, regardless of their size. The disaggregated body will be obliged to participate in the scheme. The departments will also be able to aggregate with any other public body, apart from other large departments. See section 2.4.1.
Grouping and Disaggregation of English universities and colleges. While qualification for participation will be assessed on the basis of the University and Colleges as a group, once they have qualified the colleges will participate individually unless they choose to aggregate either with other colleges of the same university or with the university itself. See section 2.4.1.
Machinery of Government changes. Government will adopt a slightly different approach to 'Designated Changes' for 'Machinery of Government' based changes. This is because such Government changes often do not involve legally distinct bodies, or equivalents to Significant Group Undertakings, upon which the 'Designated Change' rules are based. Recycling baselines and historic averages will be updated for any 'Machinery of Government' or 'Relevant Decision' change rather than restricting updates to public sector equivalents of SGUs which was the case under the Designated Changes policy proposed. See section 2.5.

April 2011 sale of allowances. Government has decided that the first compliance year of the scheme (April 2010-March 2011) will be a reporting-only year. This means that in the Government sale in April 2011 each Participant may purchase allowances for the compliance year April 2011 – March 2012 only and will not be required to purchase allowances for the first compliance year. See section 6.1.
VAT on allowances. VAT will now not be charged on safety valve allowances during the Introductory Phase. See section 6.1.1.
Early Action metric. Government will now accept the Carbon Trust Standard *or equivalents* in respect of the Early Action metric. See section 6.2.
Weighting of metrics. Government has decided that the weightings of the metrics will allow for greater weight to the Early Action metric in the second year of the scheme. See section 6.2.
Policy Developments
Definition of franchising. Government has revised the definition to cover franchising arrangements for the purposes of CRC. See section 2.3.2.
Obligation on franchisees. Government has included an obligation on the franchisee to provide its franchisor with such reasonable assistance as the franchisor requires. See section 2.3.2.
Joint Ventures and PFI. The consultation discussed responsibility for Joint Ventures and PFI as an undertaking in terms of equity share. However, to ensure there is no contradiction with the use of the Companies Act, Government has decided that the status of JV/PFI as a standalone undertaking will be determined using the Company Act tests which apply to other undertakings in CRC. See section 2.3.3.
Landlord/Tenant. Government is including a provision which requires the tenant to cooperate with the landlord organisation for the purpose of complying with CRC. See section 2.6.
Domestic energy use exclusion. Government has decided to implement its proposal to exclude domestic energy use from CRC. For mixed use sites, Participants will be required to identify and remove the energy consumption associated with domestic accommodation when determining qualification and reporting emissions during the scheme - subject to the Participant's decision whether to include consumption from communal areas in mixed use buildings. See section 2.7.
Registration information. At registration an organisation exceeding the 6,000MWh threshold will still have to declare its total electricity consumption through all half hourly meters. However, this total may be determined using estimation techniques. See section 3.1.
Onward transmission. Government has revised the definition for exclusion of fuels destined for onward transmission alongside the definition of supply. See section 4.1.
EU ETS and CCA Emissions. Government has decided to allow Participants in CCA and EU ETS to use data collected in the most recent annual period in these other schemes to report CCA and EU ETS emissions as if they were the

CRCFootprint Year data in the Footprint Report. See section 4.2.
Definition of supply. Government has revised the definition of supply, formerly the counterparty to the supply contract rule, to ensure the definition of supply is clearer and applicable to a wider variety of circumstances. See section 4.3.
Metering definitions. The definitions of pseudo half hourly metering, AMR meters, and gas metering have been refined. See section 4.4.
Treatment of schools. The 90% applicable percentage threshold will be applied at the group rather than school level. See section 4.5.
Transport Exemption. The proposed Transport Exemption will be replaced by a requirement, where applicable, to deduct transport consumption from HHM electricity before determining qualification. See section 5.1.
Transport Definition. Transport will still be excluded from CRC. However Government has adopted a new definition to cover more clearly the four forms of transport it wishes to exclude. See section 5.1.
CCA Exemption. The CCA exemptions will now be granted at time of registration, rather than after the Footprint Year, on the basis of emissions data collected for the CCA target period ending in the qualification year. See section 5.2.
Safety Valve Sales. There will not be a safety valve sale in July as there would not be enough time to allow for payment to be cleared and allowances to be distributed before the reporting and surrendering deadline. See section 6.1.1.
Recognition for renewable generation. Data that details the carbon savings of Participants from increased onsite renewable energy generation will be published alongside but separate from the league table. See section 6.2.
Voluntary 'tick box' information. In addition to the tick boxes on carbon management, there will be a fourth tick box included, to recognise Participants which actively engage employees to reduce energy use. See section 6.4.
Fuels list. There are a few additions to the CRC fuels list including peat, BOS gas and different grades of coal. Participants will be required to declare fuels used that are not listed in the table, but this will now only be required in the Footprint Year. See section 7.1.1.
Fuel reporting. Government has decided to amend the policy on reporting consumption of fuels. Participants may report consumption of fuels on a use basis rather than on the basis of an entire fuel delivery. See section 7.1.2.
Treatment of Feed In Tariffs. CRC will treat electricity consumed on-site which receives a Feed In Tariff (FIT) in the same way as electricity consumed on-site that is issued with ROCs. If the FIT is claimed, the electricity must be reported at grid average. See section 7.2.
Exported Renewable Energy. All electricity which is issued ROCs or FIT and exported to the grid or a third party will neither be able to claim electricity generating credit nor will this have to be reported as a consumed supply. See section 7.2.
Civil Penalties. Government has decided to make small changes to the way the penalties for non-compliance with registration, reporting, record keeping and information disclosure are calculated. There are also additional penalties for failing to

register accurately, failure to provide accurate information and a provision to serve an enforcement notice on a franchisee. See section 8.3.
Appeals. Government has extended the time period for lodging an appeal from 20 to 40 days. Verification of a Participants' league table position will now be done by independent verification rather than an appeal. See section 8.3.
Fees and Charges. The subsistence fee has been set as an annual fee of £1,290. An additional £10 fee will be payable for participation in the fixed price sale. The ID check charge has been reduced to £70 as the named representatives for each Participant's account will be required to purchase digital certificates directly from suppliers rather than verification of identity through the Administrators. See Chapter 9.

Chapter 2: Determining the CRC Participant

As outlined in Chapter 2 of the consultation, CRC is an organisation-based scheme. CRC covers the UK-based[5] operations of organisations in both the public and private sector. Organisations that are part of a group will participate together under the highest UK parent. In some instances CRCwill bring together organisations that are not legally related for the purposes of participation in CRC. These relationships include franchisors/franchisees, local authorities/schools and English universities/colleges. Therefore all organisations with settled half hourly meters will need to consider their structure and type to determine how they must participate in CRC.

For the purposes of determining qualification, the group structure of an organisation is taken to be the one in place at the end of the qualification year (31 December 2008). For compliance purposes, a Participant will be responsible for a site or subsidiary up to the point of sale, or from the date of purchase. The exceptions to this are changes which involve 'Signficant Group Undertakings', as these are deemed to have taken effect at the start of the compliance year in which the change ocurred (see section 2.2.3 and Annex A) and public sector 'Relevant Decision' or Machinery of Government changes for which different rules now apply (see section 2.5 and Annex B).

2.1 Parents and Subsidiaries

As discussed in section 2.2 of the consultation, subsidiary organisations will be grouped together for the purposes of the scheme under their highest parent, who will normally take action on their behalf. That person acting for the group participant is called the Primary Member and it must be a UK-based organisation. The highest parent will be the default Primary Member unless the group chooses to nominate another UK based group member to carry out the scheme's administrative requirements on behalf of the group. The scheme will draw on the Companies Act 2006[6] definitions of parent and subsidiary undertakings to define the relationships within the Group, specifically using the definition of 'Group Undertaking' set out in section 1161(5) of the Act.

2.2 Significant Group Undertakings (formerly Principal Subsidiaries)

As introduced in the June 2007 consultation and developed further in the March 2009 consultation, Government proposed that Participants would be required to

[5] UK refers to England, Wales, Scotland and Northern Ireland and all parts of the UK continental shelf. It does not include Isle of Man or the Channel Islands.

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

report a separate emissions figure for any legally defined subsidiary that would have qualified for the scheme in its own right were it not part of its group, alongside the total emissions figure for the whole of the group. These entities were called Principal Subsidiaries (PS). In light of some changes introduced, these will now be referred to as Significant Group Undertakings (SGU). In the same way that an organisation's participant status will be established based on half hourly electricity usage in the qualification year, the status of these SGUs will also be established on the basis of qualification year data, and similarly, that status is also fixed for the whole of the phase. Questions 1 to 3 in section 2.3 of the consultation related to SGUs.

2.2.1 Reporting on emissions from Significant Group Undertakings

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 around Principal Subsidiaries lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Half of all respondents to the consultation provided a direct response to the first part of the question, with 70% of these organisations agreeing with Government's proposal. Only 41% of respondents provided an answer to the second part of the question of which 68% felt that the Draft Order would not lead to unforeseen consequences. Government has therefore decided that CRC Participants will be required to report on emissions from any SGU on an annual basis as detailed in the consultation.

A number of organisations requested further clarification around how this reporting process will work. Participants will have to notify the Administrators of their group structure as part of the registration process by providing a small number of details for each of its SGUs. A member of a group will be an SGU where it would qualify for the CRC if it were not part of its group, both in the case where it is a single subsidiary and also if it has subsidiaries (and together it and its subsidiaries would qualify). Examples are provided at Annex A. When a Participant makes its Annual Report via the registry it will have to include a total for the CRC emissions of each of its SGUs. The registration guidance to be issued by the Environment Agency this autumn will

provide more details around the process a Participant will need to follow to declare its SGUs.

In response to both parts of question one, the majority of those respondents which answered no to this question either cited the increased administrative burden of reporting emissions from a SGU, or suggested an alternative approach. Government acknowledges the increased administrative burden but believes that the reporting of SGU emissions leads to significant benefits because it allows for recycling baselines to be updated at times of large organisational change (when these are judged to be 'Designated changes'- see section 2.2.3), leading to much greater transparency in the league table and also avoids Participants from unfairly benefiting or suffering from sales and acquisitions of large subsidiaries.

Some respondents were concerned that, where different subsidiaries of a Participant share premises and energy bills, it will be difficult to provide a precise emissions figure for each entity. Government agrees that attempting to accurately estimate and apportion emissions from the energy used by each entity would be burdensome and did not propose this should be the case. However, Participants will identify responsibility for the supply of energy according to the CRC definition (see section 4.3). A Participant will calculate and report on the total emissions from supplies for which each SGU is responsible.

Suggested alternatives to Government's proposals were to allow the SGU to participate separately, to align reporting with operational arrangements rather than legal boundaries of the organisation, to allow the voluntary reporting of emissions from the SGU and to require a declaration of emissions data to be provided only at the point of sale. While Government recognises that it would be administratively easier for some organisations to report using operationally defined entities rather than legal entities, to do so would not be legally robust and would be likely to lead to increased confusion around the aspects of the entity being reported on. The last two suggested alternatives above would not achieve the policy aims. The penultimate would mean that, where the Participant had chosen not to report a SGU emissions total, there would be insufficient data available to fairly adjust the historic recycling baselines of both parties concerned where a transfer involving a SGU took place ('Designated Change'). The last suggestion would reduce the transparency of the scheme.

However, Government accepts that allowing Participants to *voluntarily* disaggregate their SGU to operate in the scheme as entirely separate Participants would, in some cases, reduce administrative burdens on Participants and increase the transparency of the league table. Government has therefore decided that, where a Participant so chooses, it will be able to nominate any SGU that it wishes to participate separately. Details are provided in the next section.

2.2.2 Disaggregation of Significant Group Undertakings

As mentioned above, at registration the group Participant will be required to provide a list of its SGUs. At this stage, as part of the registration process, it will be able to nominate any SGU that it wishes to participate separately. The disaggregation could be done at any level of grouping that constitutes an SGU (see Annex 1). Any disaggregation which results in the parent falling below the qualification threshold of 6,000MWh will not be permitted. If the SGU consents to this separate participation, and registers accordingly, it will be treated as a separate Participant for the remainder of the phase and will be required to comply with the same obligations as any other full Participant. It will be listed as a separate entity in the league table and will receive a separate recycling payment after the end of each compliance year. Each disaggregated SGU will also be required to pay the full fees and charges, as it will be subject to the same audit and identity checks as any other Participant. Importantly, where the disaggregation occurs, joint and several liability between the original group and the SGU will no longer apply. The SGU will become legally responsible for meeting its obligations in CRC, and liable for any penalties associated with failing to do so.

The only other time during a phase, apart from registration, when a Participant can choose to disaggregate will be when a Designated Change occurs (see section 2.2.3). A purchasing Participant will be able to nominate the newly acquired SGU to be disaggregated if it so chooses. This must be done, and registration of the SGU completed within three months of the change occurring. Once the Administrators have received the disaggregation request from the Participant, it will notify the SGU that it must register separately for the scheme. From the point that it registers the SGU will need to fulfil the same obligations as an entirely separate Participant. If the SGU does not register before the end of the registration window (the three months directly after the change has occurred), the disaggregation request will be void and the SGU will continue in the scheme as part of its parent group.

Participants will have a mandatory requirement to report the emissions of all their SGUs that are not disaggregated. If, on the contrary, an SGU is disaggregated, the Participant will not be required to report the emissions of that SGU as part of its own total. Further details on the process to disaggregate SGUs will be part of the first set of Guidance that will be issued in the autumn.

2.2.3 Designated Changes

As outlined in section 2.2.1 of the consultation, a Participant will usually be responsible for a site or subsidiary up to the point of sale, or from the date of purchase. The exceptions to this are changes which involve ‘Significant Group Undertakings’ or an entire Participant, which are deemed to have taken effect at the start of the compliance year in which the change ocurred. These type of

organisational changes are known as Designated Changes. Different rules apply to changes involving Government departments (see Annex B).

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

Just under half of respondents to the consultation answered this question. Of those that did, 84% agreed with Government's proposal to transfer the responsibility for participating in the scheme with the purchase of a Participant or SGU to ensure the scheme coverage was maintained. Only 7% of respondents disagreed with Government's proposal, either suggesting that responsibility for the SGU remains with the original Participant or that the SGU participates independently. A couple of respondents suggested that Government amends the provision to include site based transfers of emissions.

As noted in previous consultations, Government will not adopt an approach that involves updating Participant information with respect to asset and site transfers. Experience with the UK ETS proved that requiring Participants to inform the administrator and keep records of such changes creates overwhelming administrative burdens. It is important to clarify that a Designated Change is deemed to have taken place where the majority legal ownership or control of an entire Participant or SGU is transferred to another entity or an SGU becomes a new standalone entity, according to the Companies Act tests in section 1162(2).

An example of how this might happen include where share ownership is transferred. Alternatively, if a new undertaking becomes a member of a subsidiary undertaking and as a consequence has the right to appoint or remove a majority of the subsidiary's board of directors, then this new undertaking will be deemed to be the new parent. In this section, the terms buy, sell or purchase are used as a shorthand to refer to all types of changes that would lead to a change of parent according to the Companies Act tests.

Government has therefore decided to implement its proposal to transfer responsibility for participating in CRC with the sale of a SGU or a Participant. The following instances will be considered Designated Changes and responsibility for participation will be transferred at the start of the compliance year in which the change takes place:

- Where a Participant buys a SGU, or another Participant.

- If a SGU is sold to a non-participant, the non-participant will be required to register for the scheme, but will only be required to participate in respect of the SGU it has purchased.

- Where a Participant is bought by a non-participant, the acquired Participant will be treated as a SGU, and will participate as outlined above in the case of a SGU sold to a non-participant. [7]

- Where a SGU becomes a standalone entity it will be required to register for the scheme as a standalone Participant.

Any Participant involved in a Designated Change must inform the Administrators of that change within three months of the change occurring. A non-participant purchaser itself will not be required to participate for the remainder of that phase. However during the next qualification year, the purchaser will have to assess whether the entire organisation qualifies for the next phase of the scheme. Further details around this will be contained in the forthcoming guidance from the Environment Agency.

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

Yes / No / Don't know
If no, please explain your reasoning

Government proposed that where a Designated Changes takes place that, to reduce administrative burdens, the change is deemed to take effect at the start of the compliance year in which the change took place. Under half of the respondents to the consultation answered this question and of those that did 70% agreed with Government's proposals. Government has therefore decided that the transfer of SGU or Participants will be deemed to have taken effect at the start of the compliance year during which it occurred, as outlined in the consultation.

The majority of those that disagreed suggested that the transfer should be deemed to have taken place at the time it happens, considering that it would be fairer to do so. However, Government maintains that accounting for changes as and when they occur is administratively burdensome. Importantly, when a Participant or SGU is sold to another Participant, the historic averages and recycling baselines will be

[7] Government considers that scenarios 1-3 capture how the majority of mergers will occur. For clarity, where a new company is created and becomes the parent of two participants, the new parent must register and will participate for the rest of the phase in respect of its SGUs that were already within the scheme.

transferred from the old owner to the new owner. Liability for outstanding penalties, or those relating to non-compliance under the former structure, will, however, remain with the original parent grouping. The historic average is used to calculate the yearly change in emissions by which Participants are ranked in the league table. Updating the historic average of both parents avoids the old parent appearing to have reduced its emissions due to the sale and the new parent appearing to have significantly increased its emissions due to the sale. Updating historic averages means the current year's performance will be compared to averages that reflect the current Participant size, so that the ranking reflects genuine changes in emissions. Revenue recycling payments are proportional to the size of the Participant, as indicated by their recycling baseline. Updating the recycling baselines to reflect the current size of each Participant will result in them getting an appropriately proportioned recycling payment. Consequently the purchasing organisation should not be significantly advantaged or disadvantaged by the transfer.

2.3 Treatment of Business Groups

Government proposed that business undertakings would be grouped together using the tests in the Companies Act 2006[8] recognising that businesses are often complex structures and therefore definitions should draw on existing legally robust definitions. These tests relate to voting rights, power to appoint or remove directors, right to exercise a dominant influence etc (see section 2.2 of the consultation). Questions 4 to 7 in section 2.4 of the consultation related to treatment of various business groups.

2.3.1 Use of Companies Act to define Participants

Question 4. Does the wording in the Draft Order around the treatment of business groups lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Only 39% of respondents to the consultation provided a response to this question, with the 72% of the opinion being that the Draft Order would not lead to unforeseen circumstances. Those that answered yes to the question mainly cited specific reasons why it was not appropriate to group organisations in this way for their particular sector, or requested clarity of how it would be applied to their sector, as opposed to finding unforeseen consequences. A number of organisations suggested that the scheme would be better aligned with operational boundaries, however this would not satisfy the aim of grouping organisations together to maximise the scheme

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

coverage and incentivising the sharing of emissions management best practice across the group.

To clarify, as drafted in the consultation version of the order, Government has decided to use the wide definition of 'undertaking' enshrined in section 1161(1) of the Companies Act for the purposes of the scheme and to expand the definition to include unincorporated associations which carry out charitable activities. This is to ensure that all organisations intended to participate in CRC are covered by the definition of Undertaking or Public Body. Potential participants should discuss with their company secretaries the legal structure of their organisation and how the Companies Act applies to them.

2.3.2 Overseas undertakings

In section 2.4.2 of the consultation, Government stated it wished to avoid giving differential treatment to organisations owned by overseas parents. UK-based operations must group together to determine whether they qualify for CRC irrespective of whether the highest parent organisation is based in the UK or overseas. If the UK-based parts of the organisation together qualify for CRC, the organisation would need to nominate a UK-based group member to be the organisation's Primary Member.

A number of organisations requested clarity around the treatment of overseas entities. As outlined in the consultation, UK based undertakings with the same overseas parent will be grouped together in the same way as UK based undertakings with a UK based parent. The same group undertaking tests contained within the Companies Act will be used to ascertain parent-subsidiary status. Government believes that the introduction of the possibility for SGUs to disaggregate will address concerns raised around administrative difficulties for some overseas-based companies.

2.3.3 Treatment of Franchises

In the consultation, Government outlined its position on grouping franchisors together with their franchisees for the purposes of participation in CRC. Under this grouping a franchisor would be responsible for the energy supplies of its franchisees when determining qualification for, and participation in, the scheme. Questions 4 and 5 in section 2.4.1 of the consultation related to treatment of franchising.

Question 5. Do you agree that the proposed definition of franchising 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?

The majority of respondents did not answer these questions. Of those that answered part a), 57% agreed with the definition of franchising, while 13% disagreed and the remaining 30% were unsure. Likewise, for part b) a majority of respondents agreed there were no unintended consequences (67%), while 33% considered that there may be unintended consequences of the proposed definition.

A number of those who disagreed highlighted a lack of clarity of the definition designed to capture franchising and other vertical distribution agreements. Respondents queried whether terms such as 'similar appearance' and 'substantially uniform with' were adequate. There were additional concerns about assigning emissions responsibility to the franchisor, notably where a franchisee premises is not used exclusively for the activity of the franchise, or where obtaining energy use data from franchisees could be difficult.

As stated in the consultation, Government considers that placing responsibility with the franchisor 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. Franchisors will therefore be responsible for the energy supplies of their franchisees in CRC. However, Government has worked with stakeholders on improving the definition and providing a workable solution to the issues raised. The following definition will therefore replace the original proposal.

A franchise agreement in CRC is defined by the presence of the following elements:

(1) An agreement exists between two organisations (the 'franchisee' and 'the franchisor') for the sale or distribution of goods, or the provision of services.

(2) The franchisee carries out business using the name provided by the franchisor in the agreement.

(3) The premises where the franchisee carries out the franchise business are used exclusively for that business.

(4) The presentation of those premises must have an internal or external appearance agreed by the franchisor and it must be similar to that of other premises operating a franchise business under an agreement with the franchisor.

All the conditions outlined from point (1) to (4) must be present for that business arrangement to be defined as a franchise for the purpose of CRC.

In the definition above, 'premises' refers to the area where an organisation carries out the franchise business, including both areas that the customers can access (for example, the shop) and other areas that are used by the franchisee to carry out the franchise business, such as depots or storage areas. For example, in a shopping centre where organisation A, B and C have separate shops, premises will be considered the areas used respectively by A, B and C to carry out their business, and not the entire area of the shopping centre.

The revised definition introduces the concept of exclusivity. This means that where, at the same premises, the franchisor carries out the franchise business alongside other activities not included in the franchise agreement, the business is not considered a franchise under CRC. For example if within the same premises organisation A sells stationary products and news items under a franchise agreement with B, and it also hosts a coffee shop run by a separate organisation, the activity carried out at those premises lacks the element of exclusivity and is not to be considered a franchise for the purpose of CRC.

It is important to clarify that the franchise rule does not de-link the franchisor from its wider organisation structure, i.e. the franchisor and franchisee grouping is not considered a separate entity that participates in its own right. The franchisor must include all the energy supplies for which its franchisees are responsible when assessing qualification and participating in CRC If the franchisor itself is part of a group structure, then it must provide data related to its own energy supplies and that of its franchisees to the highest parent, or Primary Member, of its organisational group.

Some organisations are large enough to be in CRC in their own right but run various franchising operations for other companies. These multi-franchise organisations must assess their own qualification excluding electricity consumption from operations carried out under a franchise agreement. The energy supplies for which these franchisee operations are responsible will be assigned to the main franchisor.

To enable a franchisor to obtain data from a franchisee, Government has also included an obligation on the franchisee to provide its franchisor with such reasonable assistance as the franchisor requires, in order to participate in CRC. In

particular, the franchisee will have to provide data related to its energy supplies. Where the franchisor has undertaken all reasonable means to gather the data necessary to comply with CRC without success, the Administrators may decide to serve an enforcement notice on the franchisee to require it to provide the necessary data to the franchisor (see section 8.3 on offences relating to enforcement notices). The Administrators may also waive the franchisor's penalty, as part of its general discretionary powers, if it is satisfied that the franchisor has undertaken all reasonable steps possible to comply with the CRC Order.

Other respondents sought clarity on how the rules of apportioning responsibility to the franchisor interact with the rules on landlord/tenant responsibility. Government confirms that the supply rule (see section 4.3) prevails over the franchise rule in those instances where the franchisee is also a tenant and the landlord is the responsible for the supply (please refer to the revised definition of supply in section 4.3). For example, in a shopping centre where the landlord pays for the entire energy supply received, the landlord is responsible for emissions of all the businesses within its building, irrespective of whether any of the businesses in the centre are operating on the basis of a franchise agreement. On the contrary, in other instances where the franchisee is a tenant and it receives a separate and independent supply, the franchise agreement rule applies and the franchisor will be responsible for the emissions related to that supply.

In response to those organisations that raised the issue of apportioning cost, benefits and responsibilities between the parties to the franchise agreement, Government has decided that this is a matter of the commercial arrangements between franchisors and franchisees that does not need to be included in the CRCOrder. Government expects the CRC will encourage franchisors to work with their franchisees to put voluntary mechanisms in place to deal with the issue of costs and benefits, or to put mechanisms in place when revising franchising agreements.

2.3.4 Joint Ventures and PFI

Joint ventures (JV), Private Finance Initiatives (PFI) and other similar arrangements were discussed in section 2.5 of the consultation. Ownership of JVs or PFIs is determined, as with other types of SGU, by Companies Act tests, which are discussed below. Where the JV/PFI has a majority owner (>50%), that owner must treat it like any other subsidiary within CRC. Where there is no majority owner the JV/PFI will be treated as the highest parent organisation and must assess qualification and participate in CRC Consistent with other aspects of the scheme, emissions responsibility in CRC lies with the party responsible for a supply of electricity, gas or other fuels. Please refer to section 4.3 for the new definition of responsibility for supply. Therefore if one owning party of a JV/PFI arrangement is responsible for a supply of energy, it must take responsibility for that energy supply in CRC. Where the JV or PFI is itself responsible for the supply, it should report the

emissions as part of its (or its parents) CRC total emissions. Unincorporated Joint Ventures are treated the same as all other JVs.

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.

Less than half of the respondents to the consultation provided an answer to this question. Of those that did, 74% agreed with Government's proposals. Only 15% of respondents disagreed with Government's approach with the majority of these suggesting that emissions should be shared amongst the JV owners in line with their equity stake. Government does not consider that this approach provides an administratively straightforward methodology.

Government has therefore decided to implement the proposal to attribute responsibility for any supply for which a JV or PFI is responsible to the majority owner, where one exists. However, the consultation discussed JVs as an undertaking only in terms of equity share. To ensure there is no contradiction with the use of the Companies Act, Government has decided that the status of JV/PFI as a standalone undertaking will be determined using the same tests.

2.4 Definition of public sector organisations

In section 2.6 of the consultation, Government outlined the structure for public sector participation in CRC. Government proposed using the general principle that each public sector organisation with its own distinct legal status would enter the scheme in its own right, providing it met the qualification threshold.

2.4.1 Revised definition for public section organisations

As a result of consultation feedback, Government has simplified the approach to public sector inclusion. In general, organisations designated as a 'public authority' in the Freedom of Information (FOI) Act 2000 and the Freedom of Information (FOI(S)) Act (Scotland) 2002 will participate in CRC on the basis of their individual FOI/FOI(S) listing, or the listing of their organisational type, unless they are legally part of another body, in which case they would participate as part of that parent body.

Under this FOI/FOI(S) approach, Police and Fire Authorities would participate on an individual basis, as outlined in the consultation, unless legally part of another body. For example, Local Authorities designated as County Fire Authorities normally be responsible for Fire Authority-related CRC emissions.

For Government departments, the Scottish Administration, the Welsh Assembly Government and Northern Ireland Departments, CRC participation is mandatory, regardless of their electricity consumption. In general, all other public bodies will participate if they meet the qualifying threshold.

Government also intends to show public sector leadership by providing the Secretary of State/Welsh Ministers with discretionary powers to require the participation of specified local governmental bodies in England and Wales that don't meet the qualification threshold. In addition bodies mandated in this fashion may be aggregated for the purpose of CRC participation. Given the strategic leadership role of the Greater London Authority in London, the Government intends to use this provision to enable the GLA to participate fully in CRC. The functional bodies associated with the GLA – Transport for London, the Metropolitan Police Authority, London Fire and Emergency Planning Authority and the London Development Agency – will all participate individually where they meet the qualification threshold.

Government has decided to allow departments to voluntarily disaggregate parts of their structure, regardless of the size of the disaggregated body, for mandatory individual participation in the scheme. All parts so disaggregated will remain within the CRC. This power of disaggregation is referred to as the 'Relevant Decision' provision and in practice operates in a similar way to the disaggregation of Significant Group Undertakings in the private sector, discussed in section 2.2.1. However in the case of Government departments it will not be restricted on the basis of size or legal status. This flexibility has been provided to departments in recognition of their mandatory participation and the legal basis for their departmental structures, which are not directly comparable with the Companies Act approach for the private sector.

In addition departments will also be able to aggregate with legally distinct public bodies for participation as part of a departmental group. The decision to exercise the disaggregation/aggregation power is available to the Secretary of State, the Treasury, Scottish Ministers, Welsh Ministers and Northern Ireland Departments. Further details of how recycling baselines and historic averages will be treated under a 'Relevant Decision' can be found in section 2.5 and Annex B.

Government has decided that any company wholly owned or controlled by a central Government department will participate in CRC with their owning department by default. The department will be able to decide whether it disaggregates the company to participate separately, under the aforementioned Relevant Decision rule. Government departments may disaggregate such companies regardless of their size but the disaggregated company will be obliged to participate in the scheme irrespective of its individual energy consumption. This approach supports

Government's desire to demonstrate public sector leadership in carbon management by mandating the participation of such publicly owned companies.

Government has also decided that any company wholly owned or controlled by any other class of public body, for example a local authority, or partially owned with a non-controlling influence by a Government department, will participate individually in CRC where it meets the qualifying electricity threshold in the same way as other organisations – unless aggregated with a Government department under the 'Relevant Decision' provision. The disaggregation option for Significant Group Undertakings is therefore not of relevance for public bodies described in this paragraph.

The Crown will be included in the CRC, subject to the limitations on information provision in the interests of national security, as proposed in the consultation.

2.4.2 Collegiate Universities

In the consultation, Government outlined its position on grouping Oxford, Cambridge and Durham universities with their colleges for the purposes of participation in CRC. Under this grouping the university would be responsible for the energy supplies of its colleges when determining qualification for, and participation in, the scheme. Question 7 in section 2.6.2 of the consultation related to treatment of collegiate universities.

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

Only 15% of respondents answered this question, of which 12% stated there are additional collegiate universities that would benefit from grouping. The other 88% of respondents stated there are no other collegiate universities for Government to group.

Respondents raised a variety of issues in response to this question including grouping satellite campuses with their university and the identification of other specific collegiate structures for grouping purposes. Additional comments focused on why it would not be appropriate to group collegiate universities. Respondents cited a lack of management control over collegiate activities, legal independence of colleges from the university, ineligibility for energy efficiency funding support, no mechanism to apportion costs and benefits based on collegiate performance and the unfair treatment of collegiate universities compared to other organisations in CRC.

To ensure equality of treatment, Government has decided to apply the policy of grouping universities and their colleges to **all** English Universities and their independent colleges. However in response to stakeholder feedback, Government has adapted the policy to provide additional flexibility for the manner of participation. Whilst qualification for participation will be assessed against the University and Colleges taken as one group, once the group qualifies the colleges will participate individually unless they choose to aggregate either with other colleges of the same university or with the university itself. Any grouping for participation will only be recognised if it has the agreement of all parties involved. Groupings must be determined at the start of a phase and must be reported as part of the registration process. Each grouping will be treated as an independent standalone Participant and it will be required to pay fees, buy allowances and report separately. The name of the grouping will appear on the league table and the grouping will receive one recycling payment. The identified grouping will remain the same for the duration of that phase.

2.4.3 Schools

As stated in section 2.6.3 of the consultation, Government intends that state funded schools in England, Scotland and Wales will be grouped together with their local authority for the purposes of determining qualification for, and participation in, the scheme. In Northern Ireland grant-aided schools will be included under the Education and Skills Authority. In the case of PFI schools, where the PFI company is responsible for the energy supply, the PFI company will be responsible for that school for the purposes of determining qualification for, and participation in, the scheme. Question 8 in the consultation related to treatment of schools.

Question 8a. 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

Around 27% of respondents answered this question, of which the majority of respondents (76%) agreed with Government's proposal and 9% disagreed. A significant number of comments related to the broader issue of including schools within the CRC portfolio of local authorities, an issue which was consulted on in June 2007 and for which Government announced its policy approach in 2008.

Comments of direct relevance to the reasonable assistance duty focused on three principal areas, namely i) the lack of knowledge and expertise at individual school level to comply with this requirement, therefore requiring local authorities to establish new reporting infrastructures, ii) the proposed annual reports would not be sufficiently frequent to allow local authorities to effectively manage the emissions and

relationship with schools, and iii) the requirement for guidance on complying with this duty.

Government acknowledges the existence of best-practice examples of local authorities/schools that have already established carbon reporting and energy management capability and partnerships, for example in relation to local authority National Indicator 185 in England, and wishes CRC to incentivise closer relationships and support mechanisms to take forward carbon reduction where they are not already in existence. Government believes the development of these relationships will be of significant value to both local authorities and schools in reporting and managing energy consumption.

Government will require schools to provide 'reasonable assistance' to their local authority where so requested, as proposed in the consultation and supported by respondents' feedback. Schools will be able to request an annual statement from energy suppliers to facilitate their reporting responsibilities. Government strongly encourages local authorities and schools to engage in a constructive dialogue that results in tailored effective reporting processes. In addition Government acknowledges the need for additional guidance on the subject and will be working with relevant partners to produce appropriate material.

Question 8b Does the Draft Order around reporting requirements for schools lead to any unintended consequences?

Almost 20% of respondents answered this question, of which a significant majority (74%) answered that the Draft Order does not lead to unintended consequences. The 26% that answered yes cited four primary reasons, namely a potential additional administrative burden, misalignment of CRC responsibility and funding arrangements/control, apparent contradiction with past and current legislation, which has seen funding and authority delegated to schools, and potential for conflict between schools and local authorities as a consequence of poor CRC performance.

The majority of this feedback relates to the actual grouping of schools and local authorities, rather than the reporting requirement per se. Government reiterates that most effective participation model is to group schools and local authorities. Cost-effective energy savings are available across this sector and both local authorities and schools should realise benefits from CRC participation at least on a par with other sectors.

2.4.4 NHS

In the consultation, Government proposed that NHS organisations which are legally distinct entities, according to the definitions in England, Wales, Scotland and Northern Ireland, and that meet the qualification criteria will participate individually in

CRC on the basis of their legal identities. Question 9 in section 2.6.4 of the consultation related to treatment of NHS organisations.

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.

Of the 24% of respondents who answered this question, 63% agreed with Government's proposed approach, 8% disagreed and 29% didn't know. The majority of comments were made by the 8% disagreeing with Government's proposed approach, and primarily focused on the CRC perceived administrative burden to the NHS and potential impact on NHS service delivery. Supplementary points questioned whether inclusion in CRC was appropriate in the cases of teaching hospitals and PFI hospitals, NHS restructuring and multi-resourced organisations.

Government acknowledges the concerns raised by some respondents. However Government maintains the 'business case' benefits for CRC participation is equally relevant to the NHS and its priorities as it is to other industry sectors, and that the health sector, in all its operational models, will be able to realise cost effective efficiency savings of at least an equal magnitude to other sectors.

In light of respondents' feedback Government has elected to include NHS organisations in the same way as other public authorities, as proposed in the consultation. Government will be working with relevant sector bodies to help raise awareness of CRC amongst NHS organisations.

2.5 Public sector organisational change

In section 2.6.8 of the consultation, Government proposed that CRC's Designated Change rules would cover the majority of public sector organisational change scenarios. However consultation feedback has identified Machinery of Government change scenarios which do not fit with the proposed Designated Change rules. This is primarily because Government changes often do not involve the movement of legally distinct bodies or Significant Group Undertakings – which form the basis for the Designated Change rules.

Government will therefore adopt a slightly modified approach for 'Machinery of Government' based changes. Recycling baselines and historic averages will be updated for any 'Machinery of Government' or 'Relevant Decision' change (as discussed in section 2.4) rather than restricting updates to public sector equivalents of SGUs. Under this approach the total baseline figure across central Government will remain constant, with any Machinery of Government change/relevant decision

resulting in the reapportioning of the total emission figures across the restructured Government estate. The exception to this would be where distinct legal entities enter or leave the Government Estate resulting in an associated overall increase or decrease of recycling baselines. This will ensure that government departments are visible throughout machinery of government changes, rather than potentially hidden under old structures until the start of a new phase. Examples of Machinery of Government changes are provided in Annex B

2.6 Landlord/Tenant

In CRC, where a landlord is responsible for the energy supply used by tenants, according to the new definition of supply outlined in section 4.3, the landlord will be responsible for that energy use in CRC. In the consultation, Government proposed that it would not proceed with the option of allowing transfer of emission responsibility from the landlord to the tenant. Question 10 in section 2.7.2 of the consultation related to this proposal.

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?

Just under half of respondents answered this question. Of those that did, 52% agreed with the Government's proposal not to allow limited transfer of emissions responsibility from the landlord to the tenant. The reasons given for agreement were that this was a simple and clear approach and that it will save time and money. Of the 35% who disagreed, the main reasons cited were that it is not fair to apportion emissions to the landlord; that tenants will not have adequate incentive to reduce energy consumption, and that landlords cannot control or influence their tenants' energy consumption.

Government has considered all the responses regarding this proposal and disagree that landlords cannot influence the energy consumption of their tenants. 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. No respondent provided a workable alternative proposal in response to this question.

However, in order to encourage tenants to work with landlords Government is including an additional provision in the revised CRC Order which requires the tenant to cooperate with the landlord organisation for the purpose of complying with CRC Government will not provide means by which to apportion costs and benefits of CRC in the revised CRC Order as this is a matter for the commercial arrangements between landlords and tenants. However our approach does not prevent landlords from passing through the costs and benefits of CRC to the tenants where current leases would allow this, and it would encourage landlords and tenants to revise and agree terms for leases accordingly. Our intention is that CRC will also encourage good practice such as sub-metering so that costs and benefits can be fairly distributed.

Therefore Government will maintain the policy as outlined in section 2.7 of the consultation. Where the tenant is responsible for the supply it, or its parent organisation, will be responsible for those emissions in CRC. Where the landlord is responsible for the supply it, or its parent organisation, will be responsible for those emissions in CRC, and Government will not allow transfer of responsibility from the landlord to the tenant.

2.7 Domestic Households

In section 2.8 of the consultation, Government proposed that energy supplies used for domestic accommodation would be excluded from CRC, as the scheme was not intended to target emissions from this sector. Question 11 related to domestic households.

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

Yes / No / Don't know
If no, please give your reasons

This question was answered by 39% of respondents. Of those that did respond, a significant majority (87%) agreed with the Government's proposed approach to exclude domestic households, with only 12% disagreeing. The reasons cited for disagreement included that it is a missed opportunity to incentivise district heating schemes, the administrative complexity associated with calculating and removing domestic energy use, proposals for voluntary inclusion of domestic housing and requests for clarification of housing-related definitions. The primary comment from respondents in favour of Government's proposed approach recognised that Government already has initiatives targeting domestic households and to include them within CRC would be a duplication of policy.

Government will therefore implement the exclusion of domestic households as proposed in section 2.8 of the consultation. All domestic accommodation will be outside of CRC's scope, irrespective of the supply arrangements, unless that housing is provided for the purposes of education, employment, religion, recreation and medical care. Examples of accommodation that will be included within CRC are university halls of residence, police section houses, monasteries, prisons, hotels and residential care homes. Accommodation on residential parks and holiday parks[9] will be classified as domestic accommodation, as will most forms of emergency accommodation provided by a local authority, and will therefore be excluded. Additional information as to the specific housing types falling within each category will provided in guidance.

The domestic exclusion will operate on a mandatory basis and energy consumption from domestic accommodation will not contribute to an organisation's qualification and will not form part of a Participant's footprint – subject to the organisation's decision whether to include consumption from communal areas in mixed use buildings. Half hourly electricity used for domestic accommodation will need to be deducted when assessing qualification. If the remaining half hourly electricity consumption falls below the threshold of 6,000 MWh, the organisation does not qualify for CRC. Where this is the case an organisation will have to make an information disclosure and indicate that their half hourly electricity falls below the threshold as a result of excluding HH electricity used for domestic purposes. For those organisations that qualify as Participants, emissions from energy supplies used for domestic accommodation will not need to be reported in either Footprint or Annual Reports.

In the consultation, Government proposed to apply the exclusion to supplies for properties whose '*primary use*' is domestic accommodation. However subsequent analysis has indicated the difficulty of determining '*primary use'*. For buildings used solely for domestic accommodation this would not be an issue, as the property's entire energy supplies would simply be excluded. However for mixed use buildings, used for a combination of domestic, civic or corporate purposes, Government has decided that Participants will be required to identify and deduct the energy consumption associated with domestic accommodation when determining qualification and reporting emissions during the scheme. This would be done through sub-metering or estimation techniques. Information on appropriate estimation techniques will be provided in guidance. Participants will be required to keep records

[9] For residential/holiday parks the legal definition used to define domestic accommodation will mean exclusion from CRC sites which are licensed, exempt from licensing or provided by a Local Authority under the Caravan Sites and Control of Development Act 1960, the Public Health Act 1936 or the Caravans Act (Northern Ireland) 1963. All other types of holiday related accommodation will be included in CRC where their owners qualify for participation.

of this information in their evidence pack and estimated consumption for the included emissions would be subject to the 10% uplift as detailed in section 7.1.2.

Any energy consumption for communal areas in a property solely used for domestic accommodation must be excluded from CRC. However, Government will leave it to organisations' discretion whether they calculate and remove the energy used in communal areas in sites used for mixed purposes or include all consumption from communal areas for qualification and footprint/annual reporting purposes. This decision must be applied for the entire phase and will be reassessed at the point of qualification for subsequent phases. This provision is aimed at reducing the administrative burden that may be associated with apportioning or disaggregating this communal energy consumption. Further information on relevant approximation techniques will be provided in guidance.

Under this approach a community/district heating scheme may be included in CRC, where these schemes do not solely serve domestic purposes. Government did consider, as part of the policy development work, completely excluding Community Heating Schemes where the majority of heat is supplied to domestic residences. However stakeholder feedback indicated difficulties in accurately defining both Community Heating Schemes and the appropriate threshold percentage for supply to domestic residences. Government has therefore decided that Participants with such schemes will report and purchase allowances for the percentage of the input fuel that is used to generate the energy provided to their non-domestic estate/customers. Details of appropriate techniques will be provided in guidance. Under this approach Participants will receive electricity credits where appropriate, for any electricity they export to the grid.

Question 11b. Are there aspects which Government needs to consider in taking forward this approach?

25% of respondents answered this question, of which responses were split fairly evenly with 50% of respondents identifying further aspects that Government needed to consider. Additional issues identified by respondents included clarifying what constitutes a domestic property, consistency with the definition of residential accommodation under the Climate Change Levy (CCL) and domestic VAT rate, difficulty in distinguishing between housing and street lighting, and treatment of housing associated revenue costs in the Growth metric.

Government has reviewed existing definitions and treatments of 'residential accommodation'. Government acknowledges the alternative definitions provided through CCL exemptions and reduced VAT rates. However none of the existing definitions provided an appropriate policy match for CRC, being either too narrow or too broad in their range of properties for CRC purposes. The Environment Agency

will therefore provide additional guidance to accompany the CRC Order to help provide clarity of definition and acceptable approximation techniques. In addition guidance will be produced on the treatment of housing related costs for the revenue expenditure element of CRC's Growth metric.

Determining the Participant: Summary of policy changes and developments

Parents and Subsidiaries. Government has decided to use the wider definition of 'undertaking' for the purposes of the scheme enshrined in section 1161(1) of the Companies Act and to expand the definition to include unincorporated associations which carry out charitable activities.

Significant Group Undertakings. A Participant will have the option to nominate any Significant Group Undertaking (SGU) that it wishes to participate separately, either at registration or if it purchases an SGU. If the SGU consents to this separate participation, and registers accordingly, it will be treated as a separate Participant for the remainder of the phase and will be required to comply with the same obligations as any other Participant.

Definition of franchising. Government has revised the definition to cover franchising arrangements for the purposes of CRC.

Obligation on franchisees. Government has also included an obligation on the franchisee to provide its franchisor with such reasonable assistance as the franchisor requires.

Joint Ventures and PFI. The consultation discussed Joint Ventures and PFI as an undertaking in terms of equity share. However, to ensure there is no contradiction with the use of the Companies Act, Government has decided that the status of JV or PFI as a standalone undertaking will be determined using the Company Act tests which apply to other undertakings in CRC.

Definition of Public Sector Organisations. Organisations designated as a 'public authority' in the Freedom of Information (FOI) Act 2000 and the Freedom of Information (FOI(S)) Act (Scotland) 2002 will participate in CRC on the basis of their individual FOI/FOI(S) listing, unless they are legally part of another body, in which case they would participate as part of that parent body.

Treatment of companies with public sector ownership. Any company that is wholly owned or controlled by a Government department, or devolved equivalent, will participate as a group member with their owning department. Any company owned by other classes of public body, or partially owned with a non-controlling influence by a Government department, will participate individually in CRC where it meets the

qualifying electricity threshold.

Government Relevant Decisions. Government departments and their devolved equivalents, may disaggregate any part of their department, including wholly owned or controlled companies, regardless of their size. The disaggregated body will be obliged to participate in the scheme. The departments will also be able to aggregate with any other public body, apart from other large departments.

Grouping and Disaggregation of English universities and colleges. While qualification for participation will be assessed on the basis of the University and Colleges as a group, once they have qualified the colleges will participate individually unless they choose to aggregate either with other colleges of the same university or with the university itself.

Machinery of Government changes. Government will adopt a slightly different approach to 'Designated Changes' for 'Machinery of Government' based changes. This is because such Government changes often do not involve legally distinct bodies, or equivalents to Significant Group Undertakings, upon which the 'Designated Change' rules are based. Recycling baselines and historic averages will be updated for any 'Machinery of Government' or 'Relevant Decision' change rather than restricting updates to public sector equivalents of SGUs which was the case under the Designated Changes policy proposed.

Landlord/Tenant. Government is including a provision which requires the tenant to cooperate with the landlord organisation for the purpose of complying with CRC.

Domestic energy use exclusion. Government has decided to implement its proposal to exclude domestic energy use from CRC. For mixed use sites Participants will be required to identify and remove the energy consumption associated with domestic accommodation when determining qualification and reporting emissions during the scheme – subject to the Participant's decision whether to include consumption from communal areas in mixed use buildings.

Chapter 3: Qualification

The criteria for qualification for CRC, as outlined in Chapter 3 of the consultation, have not changed. An organisation, as determined according to Chapter 2 of this response, will be included in CRC if, over the course of the qualification period, it has:

- one or more half hourly electricity meters (HHM) settled on the half hourly market; and
- responsibility for total half hourly metered electricity supplies of at least 6,000 MWh

Organisations that meet the first criterion, but whose half hourly metered electricity supplies over the course of the qualification period was less than 6,000MWh, will not qualify as a Participant, but will have to make an information disclosure during the registration period. Question 12 in section 3.1 of the consultation related to qualification.

Question 12. Does the wording in the Draft Order around qualification lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Only 46% of organisations responded to this question. Of those, 63% did not think that the wording in the Draft Order would lead to unforeseen consequences. The main issues raised were that the wording of the Draft Order was not sufficiently clear and there was still some confusion over who must participate in CRC A further issue highlighted was the administrative burden of determining qualification, particularly for organisations with mostly Automatic Meter Reading (AMR) rather than mandatory HHM or organisations with a large number of sites.

In general, Government has tried to reduce administrative burdens of CRC as far as possible. Although Government accepts that data collection for AMR maybe be slightly more resource intensive than for mandatorily half hourly metered supplies, Government believes there is a strong case for including AMR to achieve the intention that all large electricity consumers are captured by CRC. Likewise, the benefits of maintaining CRC as an organisation-based scheme outweigh the impacts of data collection for multi-site organisations. However the decision to allow disaggregation of Significant Group Undertakings will mitigate this issue to some extent (see section 2.2). The guidance which will be issued shortly will provide more information on how to identify half hourly meters. The position and clarification on

organisational groupings for the purposes of participation in CRC is outlined in Chapter 2.

3.1 Registration

Organisations that meet both qualification criteria must participate in CRC. Participants have to register for the scheme during the registration period. For the Introductory Phase this period is 1 April 2010 – 30 September 2010. Question 13 and 14 in sections 3.2 and 3.4 of the consultation related to registration.

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

Many respondents (53%) did not respond to this question. Of those that did, 55% agreed that organisations should declare their total half hourly electricity. The predominant reason given for agreement was that this would make the scheme more transparent. It was also stated that it would help improve judgement of group structure and provide important information when reviewing coverage of the scheme. Of those who thought that a full disclosure should not be required, the main reason given was that this would increase administrative costs for organisations, and have limited added value. Some respondents also stated that full disclosure may discourage voluntary installation of half hourly metering or AMR.

Government has considered the finely balanced arguments for and against full disclosure and has amended the policy as follows. At registration an organisation whose half hourly metered electricity consumption exceeds 6,000MWh will be required to declare this. It will still have to declare its total electricity consumption through all half hourly meters. However, to reduce the administrative burden, an organisation may estimate this total. The Participant should be satisfied that the estimated amount is within 20% of the actual amount, and should maintain records to this effect.

In response to a small number of queries about the confidentiality of qualification data, Government can provide assurance that data submitted at registration will not be publicly released unless required by the CRC Order or in response to an information request. Any such request will be assessed on an individual basis in accordance with data protection and freedom of information rules.

Question 14. Does the wording in the Draft Order with regards to registration lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

A significant majority of respondents to this question (76%) did not think the drafting of the Order on registration would lead to unforeseen consequences. Of those who thought it did, the main issues highlighted were the complexity and lack of clarity of the registration requirements, in addition to the administrative burden and cost discussed in the response to question 12.

To clarify, the following information will be required at registration for organisations which qualify as full Participants.

A. General information to allow identification of the Participant

This includes the name of the Participant, contact details such as telephone numbers and email addresses, details such as registered number and legal status, and information related to the place of business.

B. Information about group structure

This information is requested to allow the Administrators to identify the highest parent of the organisation and the highest UK parent. As part of this process, the Participant will indicate whether they wish to nominate a Primary Member different from the UK highest parent that will carry out administrative requirements on behalf of the group. Participants will also be requested to submit contact details and information about their Significant Group Undertakings. Once the Participant has completed its registration, it will be able to submit their request to disaggregate Significant Group Undertakings or parts of a Government department.

C. Information related to Half Hourly electricity use (related to qualification year data)

Participants will have to submit a list of all their settled half hourly meters, including meter identification numbers, and confirm that they have consumed at least 6,000 MWh of half hourly metered electricity (including settled HHM, AMR and pseudo half hourly meters) during the qualification period. They will also have to disclose their total half hourly electricity consumption and will be allowed to estimate this total figure.

D. Contact details

Every Participant will need to disclose the name of a director or of a person of equivalent status; and two officers responsible for day-to-day administration of

CRC for the Participant. One of the day-to-day representatives may also be the named director.

E. Information necessary for identity checks

Participants will also need to submit any identification information required by the Administrators to facilitate anti-money laundering identity checks. Although this information is not required to complete the registration process itself, this is required for the Administrators to open the compliance and trading accounts which a Participant will need to comply with CRC.

The officers responsible for the day-to-day administration of CRC may be a third party which a Participant organisation has contracted to fulfil this role. This third party representative can be nominated after the Participant's registration is complete. The director nominated (or a person of equivalent status) must be any person exercising management control of the Participant organisation, not a third party.

Organisations which are only making an information disclosure will have to provide the following information:

a. A list of the settled half hourly meters for which they are responsible during the qualification period, and the identification numbers of those meters.
b. Where that organisation's total half hourly metered electricity consumption during the qualification period was at least 3,000 MWh, a figure for the total amount of those half hourly supplies.

The Environment Agency will be publishing detailed guidance on qualification and registration during the autumn. Notification will be sent to all HH billing addresses and the guidance will be available on their website.

Government has decided that organisations that qualify for a CCA exemption must claim the exemption as part of registration. For the introductory phase only, organisations will be able to claim the CCA exemption when they submit a footprint report, if they do not have sufficient data to claim the exemption as part of registration. More details on CCA exemptions, timings, and the information that will be required to claim an exemption are provided in section 5.2.

Qualification: Summary of policy changes and developments

Registration information. At registration an organisation exceeding the 6,000MWh threshold will still have to declare its total electricity consumption through all half hourly meters. However, this total may be determined using estimation techniques.

CCA Exemption. The CCA exemptions will now be granted at time of registration, rather than after the Footprint Year.

Chapter 4: Emissions Coverage

Although qualification for CRC is based on half hourly electricity consumption only, CRC covers both direct and indirect emissions from all energy sources. Direct emissions are those from energy transformation processes that take place on the premises, whereas indirect emissions are those from energy transformation that occurs elsewhere, in particular due to electricity generation. Chapter 4 of the consultation outlined the various rules regarding emissions coverage and what types of energy use are excluded from the scheme.

4.1 Activities excluded from the scheme

Emissions covered by other regulations, namely the EU Emissions Trading System (EU ETS) or Climate Change Agreements (CCAs), will be excluded from the scheme. Energy used for transport domestic accommodation and for onward transmission (i.e. for trading purposes) is also excluded from CRC. Questions 15 to 17, in section 4.5 of the consultation, related to these exclusions.

Question 15. Does the wording in the Draft Order around the exclusion of EU ETS emissions lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of respondents to this question (74%) indicated that the drafting of the Order does not lead to any unforeseen consequences. Government can confirm that emissions covered by EU ETS will be excluded from the scope of CRC. This ensures that no Participant will face double regulation of the same emissions. Emissions from any small installations that may be excluded from the EU ETS at a later date would no longer be classed as EU ETS emissions and would therefore be included in CRC.

Although EU ETS emissions are not included in CRC, meaning Participants will not have to buy allowances to cover those emissions or report on them annually, they will nonetheless need to be reported in the Footprint Report, for the purpose of identifying the 'applicable percentage' of emissions are covered by one of three schemes – EU ETS, CCAs or CRC- as outlined in the consultation. The Environment Agency will issue guidance on how to calculate a total footprint for CRC and how to prepare and submit the Footprint Report.

A number of respondents pointed out that the inclusion of EU ETS emissions in the footprint will lead to the penalties for failure to submit a Footprint Report being calculated with reference to tonnes of EU ETS emissions which may be very large.

Government agrees and has therefore changed the way the financial penalty for failure to submit a Footprint Report will be calculated to a fixed daily rate, instead of linking this to the footprint emissions. More details on the revised penalties framework can be found in section 8.3.

A few respondents raised points related to the definition of electricity supply and the impact this could have on EU ETS installations. In response to these and other concerns, Government has revised the definition of supply. More details on the revised definition of supply can be found in section 4.3.

Question 16. Does the wording in the Draft Order around the exclusion of CCA emissions lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of respondents did not answer this question. Of those who responded, 75% did not think that the wording in the Draft Order would lead to any unforeseen consequences. Government confirms that CCA emissions will not be included in CRC. This exclusion ensures that a Participant with emissions covered by CCAs does not also have to include the same emissions in CRC and therefore that there is no double regulation of the same emissions.

Although CCA emissions are not included in CRC, meaning Participants will not have to buy allowances to cover those emissions or report on them annually, they will nonetheless need to be reported in the Footprint Report, for the purpose of identifying the applicable percentage of emission coverage as outlined in the consultation. The Environment Agency will issue guidance on how to calculate the CRC footprint and how to prepare and submit the Footprint Report.

Many respondents to this question also commented on the drafting related to the CCA exemptions. More details on the CCA exemptions can be found in section 5.2.

Question 17. Does the wording in the Draft Order around the exclusion of fuels purchased for trading purposes lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of respondents did not answer this question. Of the respondents that answered this question, 24% considered that the wording could lead to unforeseen consequences. Comments related to how the provision for onward transmission related to the definition of supply and in particular to circumstances where the supply

to a Participant is made by a third party organisation other than a licensed supplier. Further, respondents sought clarification as to how the onward transmission exclusion interacts with the landlord tenant rule, given that a landlord supplying a tenant could be considered to be onward transmission.

Government has therefore revised the definition of supply together with the definition of onward transmission. The concept of onward transmission has been changed and has become part of a simple exclusion mechanism to allow Participants to subtract from its supplies energy that is consumed for the following purposes:

- Domestic accommodation;
- Transport activities;
- Not for own consumption(with the exception of those instances where the landlord supplies energy to its tenants, where the responsibility for energy supply remains with the landlord organisation);
- On premises outside the UK.

More details on the treatment of landlord/tenant relations can be found in section 2.6. The general provisions and definition of supply is under section 4.3.

4.2 Calculating a Participant's CRC emissions coverage

As discussed in section 4.6 of the consultation, Government intends that some small sources of energy may be excluded from the scheme as long as at least 90% of emissions, and all core sources, are still regulated by either a CCA, the EU ETS or CRC. Questions 18 and 19 of the consultation related to these rules.

Question 18. Does the wording in the Draft Order around the calculation of a participant's footprint lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of respondents (60%) did not identify unforeseen consequences in relation to the calculation of the Participant's footprint. Those that responded indicating that the wording would lead to unforeseen consequences were mostly requesting clarifications as to how the calculation of the footprint works in practice. The Environment Agency will issue guidance on how to calculate a total footprint for CRC and how to prepare and submit the Footprint Report. Respondents also indicated that the mismatch between EU ETS, CCA and CRC compliance years

would lead to additional administrative burden of recalculating the same sources of emissions in slightly different periods. Government has therefore decided to allow organisations participating in CCA and EU ETS to use data collected in the most recent annual period in these other schemes to report CCA and EU ETS emissions as if they were the CRC Footprint Year data for the purpose of collating the Footprint Report.

Respondents also requested clarification on the definition of transport and how transport emissions are accounted for in the Footprint Report. Emissions from energy used for transport are excluded from CRC and should not be reported in the Footprint Report. Government has revised the definition of transport for CRC and details can be found in section 5.1.

Question 19. Does the wording in the Draft Order 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

Of the 43% of respondents who answered this question, 63% considered there were no unforeseen consequences to the drafting related to the calculation of the applicable percentage and the compilation of the residual measurement list.

Some respondents suggested that those who must record more than 90%, for example by having installed AMR, would be disadvantaged. It was also highlighted that verifying compliance with the 90% rule may increase administrative burden. A small number of respondents also thought that the distinction between core and residual sources was an unnecessary complication. Government accepts that the 90% rule may have some disadvantages, but it has the benefit of reducing the administrative burden of annually reporting all the sources including some potentially very small ones, while ensuring that significant emissions coverage is achieved. For these reasons, Government confirms its decision to implement the policy as outlined in the consultation.

4.3 Supply

In light of responses to various parts of the consultation, Government has decided to revise the definition of supply to ensure this is clearer and applicable to a wider variety of circumstances. In revising the definition, Government sought clarification and feedback from energy suppliers on the variety of existing supply arrangements. It also consulted providers of energy management services and other independent experts to understand what the definition should cover and how to eliminate

unforeseen consequences. The revised set of rules will replace what Government referred to as the 'counterparty to the supply contract' rule. Organisations must determine whether they are responsible for an energy supply for the purposes of CRC, according to the criteria outlined below.

1) Direct supply

The definition of direct supply incorporates the 'counterparty to the supply contract rule' and extends its application to other circumstances. In CRC an organisation receives a direct supply when it has an agreement with an organisation for the supply of energy. This can be a supply of electricity, gas or any other type of fuel. On the basis of the agreement, the Participant receives the supply and pays for the quantity received. In the case of gas and electricity, the supply needs to be measured by a fiscal meter. Whenever an organisation receives a supply under an arrangement that meets the conditions outlined above, that organisation is responsible for the supply of energy in CRC, for the purposes of determining qualification and during participation in CRC.

In those instance where the supply is not measured by a fiscal meter (for example when electricity is delivered via private wire or is measured by a sub-meter), the conditions outlined above are not met and the supply is not captured under CRC.

Government has decided not to specify the status of the 'supplier', which can be either a 'licensed' or an 'unlicensed supplier', as defined in the 1989 Electricity Act and 1986 Gas Act, or any other third party organisation. In this way, organisations that buy energy through a third party provider or as part of a facilities management agreement will retain responsibility for emissions from the energy supply they have received.

For example, where Organisation "A" buys electricity or gas from an authorised licensed supplier, this electricity or gas counts as a direct supply to A. Responsibility for this supply in CRC rests with A.

Alternatively, Organisation A may be buying its electricity or gas from a facilities management company. Even if it is the management company, and not A, which has the contract with the authorised licensed supplier, A will be responsible for that supply of electricity or gas in CRC. This is because the facilities management company buys energy not for its own use, and the energy is in fact used by organisation A. This applies whether the supply is delivered to A by the management company or a third party supplier.

2) Indirect supply

In addition to responsibility for direct supply, Government has decided to extend the definition so that an organisation will be responsible for indirect supplies that it receives. Indirect supply refers to those instances where a third party organisation

uses gas or another fuel to operate a generating plant which provides electricity or heat to a single CRC Participant (for example when an organisation operates a Combined Heat and Power facility under an energy services arrangement). In these instances there is in principle a direct supply of gas or fuel to a third party plant operator. However, where the plant operator uses the gas or the fuel exclusively to provide a CRC Participant with electricity and/or heat produced, the direct supply of fuel to the operator is to be regarded as an indirect supply to that CRC Participant. The CRC Participant is deemed to be responsible for the input fuel, and will need to buy allowances and report for this substance, instead of the operator.

For example, Organisation "B" operates a CHP plant (irrespective of who owns the plant). B buys gas to operate the plant. This would in principle be a direct supply of gas to B. However, B uses the gas exclusively to provide heat and electricity to Organisation "C". C is a CRC Participant and it uses all the electricity and heat it is provided with. In this instance, the supply of gas to B is deemed to be an indirect supply of gas to organisation C. C is responsible for the supply in CRC and not B. If C partially uses some of the electricity B has supplied but exports some of it to the grid or a third party, C gains electricity credits for the electricity it exports. The entitlement to the credit lies with the organisation that has responsibility for the supply in CRC.

As a consequence of this approach, the CRC Participant is solely responsible for the fuel used in the generation process and not for the electricity or heat it has received. The third party operator is not responsible for the fuel in this case and would not earn any credits for electricity exported to the customer's premises. This approach fits better with accountability for energy consumption.

This rule will apply only in those instances where the organisation operating the plant supplies electricity exclusively to one CRC Participant. The arrangements between the operator and the customer can vary: the operator can own the plant and operate it exclusively for the benefit of the customer; or the operator can solely provide management services, while in other instances can also provide additional management and maintenance services. All these circumstances will be treated in the same way, provided the condition of heat and/or electricity to one CRC Participant outlined above is met.

Where the plant operator supplies more than one customer, the organisation operating the plant remains responsible for the gas or any other fuel it has been supplied with, and may claim CRC electricity credits if appropriate. The organisations that buy the electricity or gas produced in the generation process will be responsible for the electricity purchased from that plant as a direct supply at grid average. Heat supplied which accounts for most of the power output of most CHP plants, remains zero rated.

For example Organisation “D” operates a CHP plant. D buys gas to operate the plant. The plant provides electricity and heat to organisation “E” and organisation “F”, which both are CRC Participants. D is therefore responsible for a direct supply of gas and must buy allowances to cover this energy consumption. D can claim electricity credits when it exports electricity to E and F. E and F are responsible for the electricity they receive from the plant, calculated using the grid average emission factor, and will need to buy allowances to cover this direct supply.

If Government were to make the multiple end users always responsible for input fuel, it would require end users to calculate their share of input fuel into the generation process, adding an unnecessary administrative burden. The solution outlined above also enables the operator providing electricity and heat to a variety of customers to claim electricity credits when it exports electricity to end users. If end users were always responsible for the input fuel in the generation process, nobody would benefit from the possibility to claim electricity credits.

District Heating Schemes and CHP servicing domestic accommodation will be subject to the domestic exclusion outlined in section 2.7 of this document. Participants with such schemes will report and purchase allowances for the percentage of the input fuel that is used to generate the energy provided to their non-domestic estate/customers. Details of appropriate techniques will be provided in guidance.

3) Self-supply

As outlined in the consultation, electricity used by license holders for the purposes of supply, distribution, generation or transmission, is not deemed to be a supply under the Electricity Act 1989. Government can confirm that the same provision also applies to gas used by license holders under the Gas Act 1986, where gas is used for the purposes of transport, supply or shipping of gas. Therefore CRC will not capture electricity and gas used for such purposes. However, as outlined in the consultation, CRC will capture electricity and gas used by licensed organisations under the Electricity and Gas Acts for internal activities – such as offices, call centres, data centres, etc. – other than those necessary to operate the activities covered by the licence. Government developed the definition of self-supply for this purpose and has decided to apply this definition to both licensed and unlicensed organisations under the Electricity and Gas Acts. Self-supply refers to a supply that a licensed or unlicensed organisation makes to itself.

By ‘licensed’ and ‘unlicensed’ organisation, Government is referring to the categories of organisations listed below. An organisation in one of these categories is simply referred to as a supplier.

1) an organisation that has a license to generate and/or transmit and/or distribute and/or supply electricity under the Electricity Act,

2) an organisation that has a license to transport, supply or ship gas under the Gas Act, or

3) an organisation that can perform these activities without the requirement to obtain a licence.

A self-supply is not deemed to be a supply when the self-supply of electricity is necessary for, and directly related to, the purpose of generating, transmitting, or distributing electricity; or where the supply of gas is necessary for, and directly related to, the purpose of transporting, shipping or supplying gas. Self-supply is deemed to be a supply when used for any other purpose.

For example, Organisation "G" is a licensed electricity supplier. It generates electricity and exports most of it to the grid. However, G takes some of the electricity it generates as a supply for its own use. As G is an electricity supplier some of that supply to itself is used for its generation activities. This is an activity covered by the license and is therefore not counted as a supply and will not be considered as such in CRC. However, some of that electricity generated and taken for G's own use is consumed in the company offices. This is an activity not covered by the license. This counts as a self-supply and must be included in CRC.

4) The landlord/tenant rule

As stated in the consultation, an organisation that is responsible for a supply remains responsible even in those instances where it is a landlord which receives the supply and this is used entirely or partially by its tenants. This rule applies with the new definition of direct and indirect supply. In those instances where a landlord organisation receives a supply (either direct or indirect), and provides some or all of that supply to its tenant, the landlord remains responsible for the supply received. On the other hand, if the tenant received a direct or indirect supply from a supplier other than landlord, the tenant will be responsible for that supply.

Government wishes to note that the status of 'directed utility' that a landlord organisation can acquire under the Climate Change Levy regime (pursuant to the Finance Act 2000) for the purpose of collecting the levy on behalf of its tenants has no relevance for the CRC. These organisations will be treated as landlord organisations.

4.4 Legal Definitions of Core Consumption

Section 4.7 of the consultation stated that a number of sources of energy are deemed as core sources in CRC, and must be included in the scheme if they are not regulated by the EU ETS or a CCA. Questions 20 and 21 related to the definitions of these core sources

Question 20. Taking each core CRC electricity source in turn, do the electricity metering definitions set out in the Draft Order correctly identify Core sources as stated:

(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

(i) There was a high degree of confidence that the proposed definition for half hourly meters settled on the half hourly market was correct. The Draft Order defined these meters as the meters capable of measuring electricity supplied every half hour and used by electricity generators, suppliers, distributors and transmitters to balance the loads on the grid in respect of the wholesale electricity market.

It is important to note that the CRC definition is based on the technical characteristics of settled half hourly meters and on the function they perform, rather than on the mandatory requirement to install these meters (as was the case in the first consultation on CRC).This is because the mandatory threshold for installation of

settled half hourly meters varies across the United Kingdom. The revised definition provides more certainty and it is suitable for whole of the UK.

(ii) Of those that responded, the majority (91%) considered that the definition in the Draft Order correctly identified dynamic pseudo half hourly meters. Government has further simplified this definition and it refers to a 'dynamic supply', instead of a dynamic metering system. Dynamic supply is now characterised by the existence of (i) a set of equipment fixed to land that performs a common function (for example, street lighting), (ii) one element of the set of equipment is metered (for example a lamp post) and (iii) the existing meter point is used as a benchmark to determine the overall supply to the entire set of equipment in a given period.

(iii) The majority of respondents to the question were content with the CRC definition of AMR for electricity. Of those that responded 30% however said that the definition did not correctly define AMR metering given that the meter may be read remotely by a third party, rather than the Participant and that AMR can include types of clip-on or sub-metering device.

Government has reviewed the feedback provided and has amended the definition accordingly. A meter will now be defined as an AMR meter for electricity under CRC if it meets the following four criteria:

- The meter needs to be capable of capturing consumption data on at least a half hourly basis;
- The meter must be the main fiscal meter for that supply and not a clip-on or sub metering device.
- The meter is read remotely[10];
- The electricity consumption data needs to be made available to the customer.

The definition now reflects the fact that AMR meters might not be read directly by the customer but instead may be read by a third party organisation that makes the data available to the customer.

(iv) As stated in the consultation, the CRC policy aim is to include meter profile class 5-8 metered sites within CRC as core sources. However rather than defining the profile classes themselves the revised CRC Order will define the functionality of these meters.

[10] Read remotely means that the data is not accessed at the meter itself. The remote reading may be done by the customer or a third party.

These meters are now defined as non-domestic meters that are capable of measuring the maximum demand of a non-domestic site. Government has amended this definition as it is aware that in Northern Ireland, while there are meters that possess the characteristics outlined, these are not defined by profile classes. Therefore any meter with the functionality defined above will be considered a non-domestic meter and will be treated as a core source. Although we are defining profile class 5-8 meters as "non-domestic meters" where these meters are to measure consumption at a mixed domestic/non domestic site these meters will remain core sources and Participants will need to subtract the domestic part from the total consumption measured through that meter.

Question 21. Taking each core CRCgas source in turn, do the gas metering definitions set out in 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

(i) The majority of respondents, 89%, were happy with the definition of daily read gas meters. However, stakeholders highlighted that the functionality to capture data in gas meters is not built into the gas meter, but is instead performed by an ancillary device clipped on the meter which records the data. The definition to be included in the revised CRC Order now reflects this.

(ii) For the same reasons as mentioned above, the definition of gas AMR metering has also been amended to take account of ancillary devices connected to the meter.

Some respondents submitted that at present there is not a suitable approved AMR gas meter that can be used by all suppliers. Government is aware that the Energy Services and Technology Association (ESTA) is currently developing a voluntary code of practice that will address the inter-operability issues that are currently common between suppliers.

A meter will be defined as an AMR meter under CRC if it meets the following four criteria:

- The meter together with an ancillary device is capable of capturing consumption data on at least an hourly basis;
- The meter is the main fiscal meter and not a sub-metering device;
- The meter has been read remotely;
- The gas consumption data is made available to the customer.

(iii) Of those that responded to this question, 85% were satisfied with the definition. In order for a gas meter to qualify under this definition, a Participant would need to consume more than 73,200kWh of gas through that meter during the Footprint Year. Where this is the case that meter would remain a core source for the remainder of the phase.

Six respondents noted that the CRC threshold was not consistent with the gas AMR roll out definition threshold of 732,000kWh. Although the gas threshold for CRC and the AMR roll out were originally aligned, the reason Government decided to maintain the 73,200kWh threshold for CRC rather than move to 732,000kWh is because, following the 2007 consultation, stakeholder feedback was supportive for setting the threshold at 73,200kWh and including such sites core in CRC. By going further than the mandatory roll out, CRC will lead to an increased take up of gas monitoring, which it the moment is not widespread. CRC will provide the drivers necessary for improved gas management at these sites, for example by installing AMR.

Further, the recent smart metering consultation document and impact assessment looking at the roll out of smart meters to the non-domestic sector established that installing smart metering at gas sites consuming more than 73,200kWh per year would deliver a positive NPV at these sites.

4.5 Inclusion of school energy use

As discussed in section 4.8 of the consultation and section 2.4.2 above, schools will be included in CRC with their participating local authority, or Education and Skills

Authority in Northern Ireland. Question 22 of the consultation proposed two options for how emissions from schools' energy supplies should be included and reported in CRC.

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

Only 21% of respondents answered this question, the majority of which (63%) preferred option two, whereby the 90% applicable percentage would be applied at the local authority level only and the local authority would determine their schools residual sources. Option one, favoured by 37% of respondents, proposed that schools would be responsible for determining their residual sources to ensure that 90% of their total energy use emissions are covered.

Those respondents favouring option one cited reasons of wider inclusion of sites, greater schools accountability and quality of data collection as reasons for their selection. The primary reasons stated by those supporting option two include reduced administration burden, easier implementation that requires less support, increased transparency and aligning control with CRC responsibility for local authorities.

On the basis of the feedback, Government will adopt option two, whereby the 90% applicable percentage threshold is applied at the group, rather than school level. This approach is in line with the treatment of CRC Participants in the private sector. Government also believes this option will be administratively simpler for Participants whilst providing the flexibility for local authorities and schools to target the most effective energy-efficiency opportunities across their portfolio. In response to this question several respondents questioned how local authority/schools cooperation could be ensured to maximise performance within the scheme. Government is considering the options for providing local authorities with the power to adjust schools' budgets, based on their performance in reducing their carbon emissions.

Emissions Coverage: Summary of policy changes and developments

Onward transmission. Government has revised the definition for exclusion of fuels destined for onward transmission alongside the definition of supply.

EU ETS and CCA Emissions. Government has decided to allow organisations participating in CCA and EU ETS to use data collected in the most recent annual period in these other schemes to report CCA and EU ETS emissions as if they were the CRC Footprint Year data in the Footprint Report.

Definition of supply. Government has revised the definition of supply, formerly the counterparty to the supply contract rule, to ensure the definition of supply is clearer and applicable to a wider variety of circumstances.

Metering definitions. The definitions of pseudo half hourly metering, AMR meters, and gas metering have been refined.

Treatment of schools. The 90% applicable percentage threshold will be applied at the group rather than school level.

Chapter 5: Exemptions

Chapter 5 of the consultation stated that CRC is designed to target large organisations, where the energy efficiency benefits outweigh the administrative costs of participation. However, Government is mindful that large organisations (meeting or exceeding the 6,000 MWh half hourly electricity qualification threshold) could participate in CRC for a small amount of emissions once they remove emissions from excluded activities. The consultation outlined the instances where organisations will be exempted from CRC. These exemptions included the CCA exemptions, and proposals for a transport exemption and additional CCA residual group exemption

5.1 Transport Exemption

In section 5.1 of the consultation, Government proposed that an organisation would be exempted for the duration of a phase, if its total half hourly electricity use over the course of the qualification year is less than 1,000MWh after excluding electricity consumed for transport. Questions 23, 24 and 25 of the consultation related to 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
If no, please explain reasoning

The majority of respondents to question 23, (67%) supported Government's position to create an exemption for organisations with less than 1,000MWh of electricity left in the scheme after removing half hourly electricity used for transport. Of those that

disagreed, the majority said that transport should be included in another scheme or in CRC at a later date. Government has decided to apply the exclusion for transport and is committed to monitor the treatment of transport-related emissions during the course of the scheme.

In response to question 24, 61% of respondents agreed with the proposed threshold for the transport exemption. However, a few respondents noted that this threshold could result in two organisations consuming the same amount of non-transport half hourly electricity being treated differently under CRC. For example, an organisation that consumes 1,500 MWh of half hourly electricity after deducting the electricity used for transport would still be required to participate in CRC An organisation that consumes 1,500 MWh of half hourly electricity but has no transport electricity would not be required to participate in CRC.

Government has decided not to refer specifically to a 'transport exemption' as such. Energy used for transport will simply be excluded from the scheme from the outset. Therefore half hourly electricity used to power transport equipment will need to be removed from the total when assessing qualification. If the remaining half hourly electricity consumption falls below the threshold of 6,000 MWh, the organisation does not qualify for CRC. Where this is the case, the organisation will have to make an information disclosure and indicate that their half hourly electricity falls below the threshold as a result of excluding HH electricity used for transport.

In response to question 25, the majority (79%) of respondents to this question agreed with Government's position that the transport exemption should apply for a whole phase. Therefore Government has decided to maintain the position that any organisation which does not qualify once it has excluded its half hourly electricity used for transport will be excluded for the entire phase.

Government has decided to allow Participants the flexibility to decide whether to include in CRC electricity or gas used for transport where there is no sub-metering in place. The Participant will need to decide at the point of qualification, in the case of HHM electricity, and when submitting the Footprint Report, in the case of gas and other electricity supplies, if it wishes to include transport related sources that are not sub-metered. This decision will apply for the rest of a phase, and Participants will be required to maintain evidence of this decision in their evidence pack.

Respondents submitted additional comments related to the definition of transport. Respondents indicated that this definition was not sufficiently clear and would have prevented them from identifying which types of vehicles or equipment would be considered as transport for the purpose of CRC Government has therefore revised the definition of transport which will determine the forms of transport excluded from the scheme.

Energy used for the purpose of transport is defined as energy used to power (not only for propulsion) a road going vehicle, a vessel, an aircraft or a train, including related network services. Road going vehicles are defined as those vehicles that are required to acquire a licence (including nil licences) under the 1994 Vehicle Excise and Registration Act (VERA) or are exempt from this requirement under the provisions of that Act. VERA establishes a regime for licensing vehicles for the purposes of applying vehicle excise duty for every mechanically propelled vehicle which is used, or kept, on a public road in the UK. It therefore provides a clear and workable definition for road going vehicles for the CRC. Whenever a vehicle is required to obtain a licence under VERA, is exempt from the requirement, or is required to display a certificate of Crown exemption, it will be considered as transport equipment for the purpose of CRC and energy used to power the vehicle will be excluded from the scheme.

A vessel is defined as any boat or ship which is self-propelled and operates in or under water.

An aircraft is defined as a self-propelled machine that can move through air other than against the earth's surface.

A train is defined with the same meaning of the 1993 Railways Act. Energy used for transport equipment and therefore excluded from CRC includes energy used in 'network services' as defined in section 82 of the Railways Act. Any energy used in relation to network services but with the purpose to provide power, heating or lighting to a building is included in CRC.

This revised definition of transport achieves Government's intention to include in CRC energy used for equipment such as lifts, conveyors and other on site mechanisms. In response to queries about specific types of equipment, it should be noted that certain types of equipment such as some forklifts, drill rigs, non-road going mobile or floating cranes and excavators maybe included in CRC on the basis of this definition.

5.2 CCA Exemptions

As discussed in section 5.2 of the consultation, Government stated that an organisation with a CCA may be eligible for an exemption from CRC. Any single entity organisation or group member with more than 25% of its emissions covered by a CCA will be exempt from CRC for 100% of its emissions. Government also proposed that an organisation which, having exempted group members as a result of their CCA coverage, which then had less than 1,000MWh of half hourly electricity remaining in CRC would also be entirely exempt. Questions 26 and 27 of the consultation related to CCA exemptions.

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

Only 34% of respondents answered this question. Of those that did respond, 58% agreed that the CCA exemptions should be based on Footprint Year data. Of the 25% respondents that did not agree, the majority indicated that the exemptions should be based on the qualification year, in order to minimise the administrative burden on organisations that are certain to obtain a CCA exemption and would otherwise be required to submit a Footprint Report.

Further, respondents indicated that under the Government proposal there was a high risk related to the timing of the exemption, as an organisation would apply for the exemption up to four months after the sale or auction of allowances had taken place. Respondents also indicated that it would be preferable to allow organisations in a CCA to use the data collected under a CCA target period for the purpose of CRC, as this would considerably reduce the administrative burden.

As a consequence, Government has decided to grant the CCA exemption at time of registration, on the basis of data collected for the CCA target period ending in the qualification year. This means that an organisation that qualifies for one of the CCA exemptions will need to register and, as part of registration, include the following data disclosure:

a. If a single entity Participant, evidence related to:
   - Total energy use emissions;
   - Total emissions covered by its CCA.

b. If the Participant is a group and intends to claim exemption for a member, evidence to be disclosed is:
   - Total emissions of the exempt group member;
   - Total emissions covered by that group member's CCA.

c. If Participant intends to claim residual group exemption, evidence to be disclosed is:
   - Total amount of Half Hourly electricity supplied to the group as a whole;
   - Half Hourly electricity remaining, after subtracting Half Hourly electricity use of any exempt group member.

For the Introductory Phase only, Government will allow organisations that do not have data for the whole organisation for the target period ending in 2008 to obtain the CCA exemptions as part of the Footprint Report. If they choose this option, they will need to submit a Footprint Report. Organisations must use 2008 data if it is available and will not be allowed to reconsider on the basis of Footprint Year data.

To note, where the exempt group member is a parent of other subsidiaries which are not exempt, these other group members will still be required to participate together in CRC.

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

Of those that responded to this question, 82% agreed that any Residual Group organisation should fall back into the CRC from the start of the next compliance year. Respondents noted that this would provide further ongoing incentives for organisations to meet their CCA requirements.

In consideration of the general feedback in relation to CCA exemptions, Government has decided to make changes to the Residual Group Exemption, as described above, which will now be obtained at the point of registration on the basis of data collected for the CCA target period ending in the qualification, with the choice of claiming the exemption as part of the Footprint Report if the qualification year data set is not available. This would ensure that the three elements of the CCA exemptions are aligned.

Exemptions: Summary of policy changes and developments

Transport Exemption. The proposed Transport Exemption will be replaced by a requirement, where applicable, to deduct transport consumption from HHM electricity before determining qualification.

Transport Definition. Transport will still be excluded from CRC. However Government has adopted a new definition to cover more clearly the four forms of transport it wishes to exclude.

CCA Exemption. The CCA exemptions will now be granted at time of registration,

rather than after the Footprint Year, on the basis of emissions data collected for the CCA target period ending in the qualification year.

Chapter 6: Market Design

CRC will operate as a cap and trade scheme in which Participants are required to purchase and surrender allowances corresponding to their annual CRC emissions with one allowance equivalent to one tonne of carbon dioxide emitted. The market design details of the scheme were set out in Chapters 6, 7 and 8 of the consultation. In the Introductory Phase, an unlimited number of allowances will be sold during the Government sales in April 2011 and April 2012. The price of allowances will be £12/tCO_2. From 2013, Government will introduce a cap on the number of allowances available and these will be distributed via an auction during April, at the start of each compliance year. Participants can purchase allowances during the sale or auction, by trading with other Participants or third parties on the secondary market, or via the safety valve mechanism. Allowances may also be banked for use in future years, with the exception of the end of the Introductory Phase when all allowances that have not been surrendered will be cancelled to protect the integrity of the cap.

6.1 Purchasing allowances and revenue recycling

CRC is not designed to be a revenue raising instrument and the total of the recycling payments will be equivalent to the total amount raised from the Government sale or auction of CRC allowances. Changes announced in the 16 July 2008 policy statement reduced the time between payment and recycling from eighteen to six months by providing for a double sale at the beginning of the second compliance year, whereby Participants would buy allowances retrospectively for 2010 and prospectively for 2011, and receive a double payment in October 2011. In light of stakeholder concern about the impact of a double sale of allowances on cash flow, Government has decided that the first compliance year of the scheme will be a reporting only year. This means that, in the first Government sale in April 2011, each Participant may purchase allowances for the compliance year April 2011- March 2012 only. Participants will not have to buy allowances retrospectively for the 2010/11 compliance year. Participants will have to submit Footprint and Annual Reports at the end of July 2011, detailing their emissions during the 2010/11 compliance year, but will not have to surrender any allowances.

Allowing the first compliance year to be a reporting-only year will ensure the Introductory Phase has a comparable financial impact to the other phases while maintaining the effectiveness of the reputational and financial drivers, and continuing to encourage Participants to become more aware of their energy consumption.

There has been some misunderstanding about how the revenue recycling amount is calculated for each Participant. To clarify, the revenue recycling payment is determined by four things:

1. How much money was collected in the sale and so is available for recycling;

2. The Participant's 2010/2011 emissions – the 'recycling baseline' (adjusted as appropriate for any Designated, Relevant Decision or Machinery of Government Changes);

3. The bonus or penalty awarded to the Participant due to league table ranking.

It is important to note the amount of recycled revenue a Participant receives is **not** linked to the amount that Participant has spent on purchasing allowances in any given year.

As Government stated in section 8.7 of the consultation, the maximum bonus and penalties will increase each year for the first five annual recycling payments of the scheme. Government received very few comments regarding the bonus and penalty levels and has, therefore, decided to leave this aspect of the scheme unchanged. For clarity, it is emphasised that the amount received as a result of the bonus or penalty percentage is subject to the proportionality constant. This means that the maximum bonus or penalty percentage for each year will not necessarily equal the maximum monetary reward or penalty each Participant could receive, according to the stated percentages. Annex D provides a worked example of the process.

6.1.1 Safety Valve

As described in section 6.5.2 of the consultation, Government will implement a 'safety valve' mechanism that allows Participants to purchase additional CRC allowances from the Administrators, during the course of the compliance year. To maintain the environmental ambition of the scheme, the Administrators will purchase and cancel an allowance from the EU ETS market for each safety valve allowance issued. Questions 28 and 29 of the consultation related to the safety valve mechanism.

Question 28. Do you agree that proposed minimum Safety Valve price of £12/tCO_2 is appropriate?

Yes / No / Don't know
If no, please state reasoning and indicate an alternative price

Just over half of all respondents answered this question, and 65% of those who answered agreed with Government's proposed price. Amongst those who did not agree, the majority suggested that the price should be higher, as £12/tCO_2 is too low to bring about the emissions reductions needed to meet UK obligations. It was also suggested that a minimum price of £12 would be too low to encourage Participants to accurately purchase the appropriate number of allowances during the Government sale or auction.

In contrast, some respondents claimed that the £12/tCO_2 safety valve price is too high. The main reason given was that a high price may impose too great a financial burden on companies. It was suggested that the price should be lower especially in the Introductory Phase of the scheme in order not to penalise inexperienced Participants.

Government believes that setting a minimum price of £12 t/CO_2 sends a strong signal to the CRC market that safety valve allowances will only ever be the same price or more expensive than allowances in the Government sale and therefore accurately predicting emissions and buying the commensurate number of allowances from the Government sales is a sensible way of avoiding risk. As discussed in the 2008 Government Response, a minimum price is important to ensure that energy efficiency opportunities are taken up within the CRC sector, and that Participants view the Safety Valve as an option of last resort. At the same time a minimum safety valve price of £12/tCO_2 will not excessively penalise those that have failed to manage their emissions according to their emissions reductions strategy. However, it is important to bear in mind that this price will be linked to the carbon price in the EU ETS[11] and so could rise significantly higher than £12/tCO_2.

Government considered responses proposing that Participants be reimbursed for their unused allowances at the end of the Introductory Phase. Government believes this would reduce the incentive for Participants to accurately predict and continuously manage their emissions throughout the Introductory Phase and therefore Government will not be offering this option.

Government has also reconsidered the VAT position of safety valve allowances and concluded that for the Introductory Phase, while the size of the secondary market remains unclear, no VAT will be charged on Safety Valve allowances.

[11] As explained in the consultation, the administrator will buy and cancel an EU Emissions Allowance (EUA) for every safety valve allowance created – effectively taking a tonne of CO2 from the EU ETS market and adding it to the CRC market. Participants will be expected to bear the burden of the full cost of creating a safety valve allowance.

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

Under half of the respondents (46%) answered this question. Among those who did, 80% agreed with the Government's proposal to issue safety valve allowances once a month to reduce administrative costs, only 14% disagreed with the approach, while 5% were not sure.

Government concludes that a monthly sale will strike the appropriate balance between accessibility and reasonable administrative costs. Government believes that the uncertainty of the long term price and additional costs of using the safety valve are strong enough disincentives to make it an option of last resort for Participants. A monthly sale will prevent the price of CRC allowances in the secondary market from being significantly higher than the cost of allowances in the EU ETS. As stated in the consultation, Government will hold two additional sales, following the end of each compliance year, at the start of May and June. There will not be a safety valve sale in July as there would not be enough time to allow for payment to be cleared and allowances to be distributed before the reporting and surrendering deadline.

Government maintains its position stated in the March 2008 Government Response that Participants will not be able to use their own European Union Allowances (EUAs) to create safety valve allowances. Participants will have to ask the Administrators to create the safety valve allowance on their behalf. Government is confident that this will have no distorting effect on the EU ETS market as the anticipated volume of EUAs the Administrators will purchase will be very small relative to the usual daily traded volumes of EAUs.

6.2 The Energy Efficiency Performance League Table

In Chapter 8 of the consultation Government proposed that, in addition to the standard elements of a cap and trade mechanism, CRC will also include a published energy efficiency performance league table to leverage reputational drivers to reduce emissions. The league table will rank Participants according to their scores in three differently weighted metrics: the absolute emissions reduction metric; Early Action metric; and Growth metric. Questions 30 to 32 of the consultation related to the league table.

Question 30. Does the wording in the Draft Order around the calculation of the Early Action metric lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Just over half of respondents (51%) answered this question. Two thirds (68%) indicated there may be unforeseen consequences. Overall, however, respondents made more general comments on the policy rather than the wording in the Draft Order.

Many suggested that the Early Action metric is too narrow and does not recognise other forms of early action, giving examples of other types of accreditation available. Government has decided to allow certified verification under schemes that are alternative but equivalent to the Carbon Trust Standard to also count towards the Early Action metric. The below criteria explain what Government considers to be equivalent to the Carbon Trust Standard and further guidance will be issued if necessary.

In order for verification under a scheme to count towards credit in the Early Action metric the following criteria must be met:

- Data is required over a three year period, and must demonstrate either an absolute emissions reduction, or at least a 2.5% per annum relative emissions reduction;

- The reductions cannot be achieved through the use of offsets, and (consistent with CRC) all purchased electricity must be treated at grid average;

- Reductions are measured in terms of emissions rather than energy consumption;

- A high quality energy or carbon management system is required, focusing on measurement, management and reduction and that is transparent;

- The same assessment criteria are applied to all sectors and regions captured under the CRC;

- It is available to all CRC Participants;

- Verification can only be achieved on the basis of proven emissions reductions rather than wider environmental impact management actions; and

- A high standard of data and evidence is required as part of the assessment process.

In addition Government want to ensure a fair and transparent scheme in which all Participants are treated equally. To ensure this, Government will also expect that:

- Verification is undertaken by independent, accredited third party or parties against a Standard that is managed by an independent and competent authority

To ensure minimal burden on Participants, the certifying body will also need to provide the Administrator with data or assistance to enable verification of the Participant's claims.

Stakeholders proposed several schemes which do not meet the criteria above and will therefore not be recognised as early action in CRC. For example, several stakeholders have stated that they have earned ISO14001 certifications and would like this to be recognised as early action. While Government recognises that developing environmental management systems can be an important first step towards understanding an organisation's emissions, ISO14000 certifications focus on a broader range of environmental impacts than just carbon emissions, and also do not require actual reductions in emissions to be made. Government intends to reward those Participants that have taken significant steps to curb their emissions over a period of several years.

As previously stated Government will recognise any emissions certified under the Energy Efficiency Accreditation Scheme.

Government has consistently acknowledged that using AMR as a proxy for early action was an imperfect measure, but considers that it still meets the criteria of simple, scheme-wide, easily auditable, and with low administrative burdens for Participants. Responses to this and the previous consultation failed to generate consensus around an alternative proxy that would meet these criteria. Government anticipates that AMR, combined with the Carbon Trust Standard or equivalent, will create an Early Action metric that will provide a meaningful indication of how much genuine engagement with emissions management and reduction a Participant has had prior to the scheme.

A few respondents to this question requested clarification around which meters would be considered as voluntary. The definitions of AMR metering are outlined in section 4.4 of this document. For the purposes of calculating AMR coverage for the Early Action metric the following types of meters will count as voluntarily installed AMR:

For electricity:

- Non mandatory half hourly settled meters[12]
- Non settled half hourly meters
- Dynamic supplies

For gas:

- Non mandatory daily meters[13]
- Hourly meters

As of 1 April 2009, Government introduced a mandate for energy suppliers to roll out AMR metering to profile class 5-8 sites and gas sites consuming more than 723,000kWh per year. This mandate applies in respect Great Britain. Where meters are installed to comply with this mandate they will still be considered as voluntary AMR meters in CRC. This is because if these meters were treated as mandatory, Participants with these meters would not have the option to install metering voluntarily, and therefore perform well in the Early Action metric. It is not Government's intention to disadvantage Participants in this way. Therefore, as indicated in the consultation, AMR metering installed before 1 April 2011 will be treated as voluntary within CRC and count towards the Early Action metric.

Responses to this question sought clarification on why AMR meters installed as sub-meters would not count towards the Early Action metric. The reason why CRC does not recognise the installation of sub-metering, or clip-on devices (for electricity) is because Participants are required to report their energy consumption data based on readings from their fiscal meters. Inclusion of both the fiscal meter and sub-metering in CRC could lead to double counting of the same energy use, for this reason sub-meters are not recognised in CRC.

Further the CRC counts electricity consumption through AMR meters towards qualification and annual reporting. For this reason it is important that the data used to assess qualification for the scheme is accurate. In order to ensure that data used for qualification and reporting is recorded using sufficiently accurate equipment, the CRC will only capture meters which are used for billing purposes. This is because all electricity meters used for billing need to be approved under Schedule 7 of the Electricity Act which guarantees the accuracy of the meter.

[12] If half hourly settled meters are not required under the Balancing and Settlement Code on a mandatory basis, then they will count as *voluntary* AMR

[13] If daily meters are not required under the Uniform Network Code on a mandatory basis, then they will count as *voluntary* AMR

In light of consultation responses Government has reviewed whether the original proposed weighting of the Early Action metric gave enough credit to those that have achieved significant emissions reductions prior to the start of the scheme. Government has decided to reduce the weighting of the metric more gradually so that it is 100% in the first year, 40% in the second year and 20% in the 3rd year. This means that in year two the ratio of metrics will be Absolute metric 45%; Early Action Metric 40%; and Growth metric 15%.

	Year 1 (Oct 2011)	**Year 2 (Oct 2012)**	**Year 3 (Oct 2013)**
Early Action Metric	100%	40%	20%
Absolute Metric	0%	45%	60%
Growth Metric	0%	15%	20%

Question 31. Does the wording in the Draft Order around the calculation of the Performance League Table lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Of the 51% of respondents who answered this question, 69% said they were concerned that the wording in the Draft Order would lead to unforeseen consequences with respect to the league table. Overall, however, respondents focused on general comments on the policy, which was the subject of the 2007 consultation, rather than the wording in the Draft Order.

The comments included opinions that the league table concept was not in keeping with a cap and trade scheme. Government strongly believes that using a league table to rank Participants could leverage powerful reputational drivers and incentivise Participants which are unlikely to be motivated by the financial aspects of the scheme as energy costs are a very small proportion of their total costs. Overall, the main emphasis of the league table remains on the Absolute metric. This was supported by the majority of respondents to the 2007 consultation who preferred a primary focus on absolute emissions reductions, in line with the objectives of the scheme.

Respondents also suggested that the Growth metric should be given more weight, and that revenue expenditure or turnover was not the best measure of growth for all Participants. Some other Participants stated that turnover and revenue expenditure would be affected by fluctuations in the price of energy or by variation in their outputs that would create a distorted perception of the changes in their energy intensity.

Government has considered these arguments but deems the need for a metric that is simple, scheme-wide, easily auditable, and with low administrative burdens for Participants to be of greater importance. Using turnover or revenue expenditure from the most recent set of audited accounts avoids placing unnecessary burdens on Participants because the scheme is using information that is already publically available. There has been some confusion with respect to the term 'revenue expenditure'. To clarify, Government is happy to allow those Participants for which this is relevant to use a total expenditure figure from their audited accounts that does not include any capital expenditure and which is consistently applied each year. However it must cover all UK operations of the CRC Participant. An additional benefit of using turnover or revenue expenditure figures is that they are broad, simple concepts with which Participants, and others who are interested in the published results, will already be familiar. Government has decided not to add additional metrics or change the nature of the Growth metric in order to avoid adding complexity. The responses calling for more detail or a wider range of options to use as measures of growth in the league table were balanced by the calls for the league table to be kept as simple as possible.

Another suggestion was that there should be separate league tables for different sectors. Government considers this inappropriate as it would reduce the transparency and dilute the impact of the league table, as well as not accounting for Participants who operate in many sectors. It could also potentially lead to a system where a Participant in one sector might have reduced its emissions further than another Participant in another sector but receive less recognition for doing so due to the varying competitiveness of each sector's league table. However, once the league table is published it will of course be possible for anyone to construct sector specific league tables, based on the available data.

Finally it was suggested that onsite renewable generation should be recognised within the CRC, in particular by introduction of another metric. Government is committed to maintaining the CRC as a key policy in delivering energy efficiency improvements. This will deliver carbon savings at the least cost to the nation, and will also ensure that these savings on energy bills benefits the public and private sector. Government does agree that there is merit in using the data from the CRC to highlight where organisations have invested in onsite renewables as part of their contribution to a low carbon economy. Onsite renewables here refers to electricity generated and used by the Participant on site, and not exported to the grid or third party. The Administrator will therefore publish data that covers both the carbon savings from increased onsite renewable energy generation and absolute energy efficiency savings (as used in the energy efficiency league table). This data will allow comparisons to be made between organisations.

Government is committed to review the scheme for the operation of the second phase, and will include consideration of the operation of the league table and the metrics.

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

The majority (72%) of those who replied to this question agreed with the proposals. About one fifth of those who answered the question disagreed with the proposal. A number of respondents thought the league table should be published once, but circulated to Participants first. A similar number preferred a single publication but without any mistakes. Some respondents also highlighted that the first publication will have the greater reputational impact, or that as recycling is based on the first publication there was not a significant benefit to a second publication.

Government has decided to publish the league table twice. Before the first version is published the Administrators will go through a rigorous process to ensure that the table accurately reflects the information that was reported by Participants in the previous July. The first version will be used to determine the revenue recycling payments. When the recycling payments are made they will be accompanied by a notification to each Participant of how its scores were calculated. In the unlikely event that a Participant disputes their score, the Participant may request an independent verification within 40 days after the publication of the league table. The Administrators will publish a list of those that have lodged a request for verification, once the 40 day window to request verification has closed. If a dispute is upheld and the Participant has their ranking raised as a result, they will be paid an additional recycling payment in the next compliance year that will be funded from the subsequent year's sales revenues. The recalculated league table will be published once all disputes have been resolved in order to maintain full transparency and ensure that all Participants are aware of their final ranking for that year.

6.3 Using historic averages to assess performance

As proposed in section 8.5 of the consultation, a Participant's performance in both the Absolute metric and the Growth metric will be assessed using an annual CRC emissions figure relative to their average annual emissions over the preceding five years of the scheme, or since the scheme started, whichever is the shorter period. Assessing performance against a rolling average provides further recognition of a Participants natural growth or decline. At the same time that it updates historic

emissions averages the Administrators will also update the recycling baselines that will be used to calculate future recycling payments.

As mentioned above, Government will not update the historic emissions average or recycling baseline to account for changes to operations such as the sale or transfer of assets or the closure of individual sites. To do so would create considerable administrative burdens for Participants who would be required to maintain detailed emissions records for each individual site they own.

However, Government proposed three instances where emissions averages and recycling baselines would be updated:

- Where a Participant ceases to be eligible for a Climate Change Agreement as a result of changes to CCA eligibility criteria.

- Where Participants or Significant Group Undertakings undergo a designated change.

- Where a Participant has emissions transferred from EU ETS into CRC as a result of change to the EU ETS regulations.

Questions 33 to 35 of the consultation related to updating emissions averages as a result of these changes.

Question 33. Does the wording in the Draft Order 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

Only 31% of respondents to the consultation provided an answer to this question. Of those that did 92% did not think that the Draft Order would lead to unforeseen circumstances. Those that predicted unforeseen consequences focused on the application of the CCA exemption (see section 5.2), rather than the principle of updating baselines or historic averages. Government has therefore decided to update historic average emissions and recycling baselines to account for transfers of emissions into, or out of CRC due to Government changes to eligibility criteria with respect to CCAs.

Participants will be required to inform the Administrators of the transfer of emissions within three months of the change occurring. Further details of the process for a Participant to inform the Administrators will be issued in guidance.

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 around the methodology for updating baselines to account for 'Designated Changes' lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Just under half (47%) of respondents answered question 34. Of those that did the majority (87%) agreed with Government's proposal to update historic emissions averages and recycling baselines to take account of 'Designated Changes'. Those that disagreed with Government mainly took one of two opposing positions, either suggesting that averages and baselines could be updated in more instances to take account of the sale of assets or smaller subsidiaries, or suggesting that averages and baselines should not be updated to account for designated changes due to the administrative burdens that it would create.

Fewer organisations (38%) responded to question 35 and of those that did the majority (70%) agreed that the wording in the Draft Order would not lead to unforeseen circumstances. Those that did not agree requested greater clarity of the process or suggested that amendments to averages and baselines should account for the purchase of assets or changes to contracts. Government considers the administrative burden of updating averages and baselines as a result of the purchase of assets or changes to contract to outweigh the benefits of accounting for these changes.

Given the weight of opinion towards updating baselines in line with the proposals, Government has decided that historic emissions averages and recycling baselines will be updated to account for the purchase or sale of Significant Group Undertakings and Participants. As a consequence of this, when a Significant Group Undertaking is sold, its historic emissions average and recycling baseline will be transferred from the old parent to the new parent as if the change had occurred on the first working day of the previous April. The revenue recycling that is awarded on the performance of that change year will be calculated based on the new recycling baselines for both groups. Further details around the process will be provided in the forthcoming guidance issued by the Environment Agency.

As a result of policy amendments regarding Government and public sector organisational changes, Government can confirm it will update historic emissions averages and recycling baselines to account for Machinery of Government changes and public sector 'Relevant Decision' changes. Further information is available in section 2.5.

6.4 Additional disclosure of information on carbon management

To add context to the league table, and to encourage a more strategic approach to managing carbon with reference to longer term targets, Government decided to include simple voluntary tick box questions as part of the scheme. In section 8.6.2 of the consultation, Government stated 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 emissions 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 emissions? Yes/No
3. Does your CRC organisation name a Director with responsibility for overseeing carbon performance, in respect of the *majority* of its CRC emissions, in its annual reporting? Yes/No

Question 36 of the consultation related to these tick box information disclosures.

Question 36. Does the wording in the Draft Order around the disclosure of information on energy management lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of those that answered this question (63%) did not see any unforeseen consequences of the Draft Order wording on disclosure of information on energy management. Respondents who did identify unforeseen circumstances largely sought clarity about the level of the organisation to which this information relates, the administrative burden of this disclosure and issues of commercial confidentiality related to this information. Some comments were also made that the targets based on CRC emissions may not be as applicable for some types of Participants as others.

Some stakeholders asked for a clarification of the term 'majority' used in the three tick box questions. Government will consider that these criteria are met if more than half of the CRC Participant's CRC emissions are managed in a way that complies with the tick boxes requirements. For example, a Participant should consider its CRC emissions that it reported in its annual CRC report for that compliance year, and if more than half the CRC emissions are included in those emissions which are reported publically compared to targets set previously (for example in the organisation's CSR or annual company report) then the Participant can tick that box. The participant should maintain a record of this calculation within its evidence pack in case of audit.

Two respondents commented that, with respect to the third question, the term 'Director' was not appropriate for all Participants. In light of these comments Government has changed the phrasing in the revised CRC Order to enquire whether a 'person with management control' has responsibility for such matters.

Government accepts that these measures of emissions management may be less applicable for some Participants within the scheme. However, no appropriate alternatives were suggested. Government considers that the weight of support for these tick box disclosures in this and the previous consultation merits their continued inclusion. Given that these are voluntary disclosures and have no impact on the league table or financial impacts of the scheme, where disclosure presents issues of confidentiality or administrative burden, Participants can elect not to provide this information.

It was also suggested that a measure of employee engagement should be introduced to the tick box disclosure. Government has considered this proposal and agrees that employee engagement in energy management will be important to achieve the overall emissions reduction aims of CRC. Therefore there will be a fourth tick box included, for Participants which actively engage employees to reduce energy use. Participants may tick the employee engagement box if they meet one of the following criteria:

- Energy management training is offered to the majority of employees in your organisation

- Your organisation has active employee working groups on energy management, which report to senior management, and take forward initiatives to reduce the organisation's carbon emissions.

- Where an independent trade union is recognised for collective bargaining purposes, energy management issues are considered in these joint

discussions and members actively take forward initiatives to reduce the organisation's carbon emissions.

Participants who choose to provide responses to the voluntary information tick boxes must keep records to support their responses in their evidence pack.

Market Design: Summary of policy changes and developments

April 2011 sale of allowances. Government has decided that the first compliance year of the scheme (April 2010-March 2011) will be a reporting-only year. This means that in the Government sale in April 2011 each Participant may purchase allowances for the compliance year April 2011 – March 2012 only and will not be required to purchase allowances for the first compliance year.

VAT on allowances. VAT will now not be charged on safety valve allowances during the Introductory Phase.

Early Action metric. Government will now accept the Carbon Trust Standard *or equivalents* in respect of the Early Action metric.

Weighting of metrics. Government has decided that the weightings of the metrics will allow for greater weight to the Early Action metric in the second year of the scheme.

Recognition for renewable generation. Data that details the carbon savings of Participants from increased onsite renewable energy generation will be published alongside but separate from the league table. See section 6.2.

Voluntary 'tick box' information. In addition to the tick boxes on carbon management, there will be a fourth tick box included, to recognise Participants which actively engage employees to reduce energy use.

Chapter 7: Compliance, Reporting and Record Keeping

In Chapter 9 of the consultation, it stated that CRC Participants will have to comply with key obligations in the scheme. These requirements include registration, reporting and maintaining evidence records, the cancellation of sufficient allowances to cover annual CRC emissions and reporting data as accurately as possible. Other performance requirements include general cooperation with the Administrators and relevant assistance to be provided by tenants, franchisees and public bodies such as schools. In complying with these obligations Participants must also follow rules for measuring different types of energy use appropriately and keeping adequate records to support the information that they must report to the Administrators. Questions 37 to 40, in Chapter 9 of the consultation, related to Participant obligations in CRC.

Question 37. Does the wording in the Draft Order around participant obligations lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority (78%) of respondents to this question did not think that the wording of the Draft Order on the Participants' obligations led to any unforeseen consequences. Respondents used this question to raise a number of requests for clarifications. These responses, together with other requests for clarification raised during the consultation, have been noted and will inform the preparation of guidance documents to support organisations in complying with the scheme.

Question 38. Does the wording in the Draft Order around the Footprint Report lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of respondents (67%) did not think that the wording of the Draft Order around the Footprint Report led to any unforeseen consequences. Respondents used this question to raise a number of requests for clarifications. These have been noted and will inform the preparation of guidance documents to support organisations in complying with the scheme.

Question 39. Does the wording in the Draft Order around the Annual Report lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

The majority of respondents (77%) did not think that the wording of the Draft Order around the Annual Report led to any unforeseen consequences. Respondents' main concern was in relation to the penalty for inaccuracy and errors incurred in good faith. Government has revised the enforcement framework following the consultation and details can be found in section 8.3.

Respondents to this question also raised concerns around the treatment of electricity generation. The response to these comments is provided in section 7.2.

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.

The majority of those who responded to this question (73%) indicated that they agreed with the proposals for the Footprint and Annual Report. Concerns were raised about the difficulty in collecting data and respondents requested clarifications and support from Government in the form of guidance.

Stakeholders also raised concerns about the impact of reporting consumption of fuels based on amounts delivered rather than amounts consumed, as deliveries are often large volumes and infrequent. Therefore Government has decided to amend the policy on reporting consumption of fuels. Participants may report consumption of fuels on a use basis rather than on the basis of an entire fuel delivery. Further details can be found in section 7.1.2.

7.1 Measuring Energy Use

As indicated in section 9.3 of the consultation, Participants will be obliged to measure the emissions from energy supplies for which they are responsible according to the emissions factors specified in the CRC fuels list. These amounts will then be converted by the Registry into tonnes of carbon dioxide by the application of standard emissions factors. Where energy supplies are estimated, an uplift of 10% will be applied to the total estimated for the purpose of annual reporting. Questions

41 to 46 of the consultation related to fuel reporting and the use of fuel emissions factors.

7.1.1 Emissions Factors

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

The majority of respondents (78%) agreed with Government's proposal to list CRC fuel conversion factors in kg of CO_2 per measurement unit rather than $kgCO_2$/kWh. A number of respondents both for and against the proposed method requested that there should be a range of measurement units available for reporting each fuel. The Environment Agency will publish guidance on how to convert the emissions factors provided into other measurement units.

Question 42. Does the fuels list 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?

Of those who answered this question 66% agreed that the list covers all fuels used in their organisation. Of the 27% that answered no, it was suggested that a number of fuels should be added to the fuels list. Government has considered these proposals and made some alterations to the fuels list as described in the table below.

Table 1: Decisions on fuels to include in CRC

Fuel	Government decision
Fuel oil – list more grades and types	The UK Greenhouse Gas Inventory (UK GHGI) uses only one carbon emission factor for fuel oil, supplied by the United Kingdom Petroleum Industry Association (UKPIA). No further breakdown is available. Equally the relevant section of the Intergovernmental Panel on Climate Change (IPCC) guidelines[14] has also been reviewed and this does not provide any further breakdown. In the EU ETS, depending on the reporting requirements, operators

[14] http://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/2_Volume2/V2_2_Ch2_Stationary_Combustion.pdf

	are required to test and characterise the specific fuel they are using due to the variation between different fuel oil types. Under CRC this is not seen as an option, as the aim is for all Participants to use the same emission factors and not make the requirements of the scheme overly onerous. Therefore only one factor will be used to calculate emissions from any additional grades of fuel oil at this time based on the emission factor for fuel oil currently available through the UK GHGI.
More types of waste derived fuels	Government has decided not to add different types of waste in the CRC fuel table. To date the CRC policy position on waste has been to have one factor. This keeps the scheme simple while also incentivising the processing and separation of waste to improve its calorific value. Respondents highlighted that the caloric value for waste varies widely so having one factor might not be appropriate. Government is aware of this and has decided to use a factor for waste which is consistent with the non-biogenic content emissions factor of Municipal Solid Waste (MSW). This is because MSW is understood to account for the vast majority of waste that is combusted. Under this approach CRC will incentivise the use of more refined waste derived fuels.
Differentiate between Propane and Butane	Both propane and butane are classified as LPG. The emissions factors table will be amended to reflect this.
Meat and bone meal	Meat and bone meal will fall within the CRC definition of biomass.
Different grades of coal	The original emission factor provided for coal was a weighted average factor for all uses excluding domestic and power station use. This was based on the Defra GHG conversion factors for company reporting (which is based on the UK GHGI). In order to provide a more accurate calculation of emissions to be made across different sectors under the CRC, additional factors will be included for different sectors. This information is available from the EU ETS emission factors table for the following: • Industrial coal • Commercial / Public Sector coal • Cement industry coal[15] These different emission factors are based on the gross calorific

15 Beyond the CRC registration period, it is anticipated that the emission factors for BOS gas and cement industry coal are unlikely to be used extensively, as these fuel types are used by organisations in specific industry sectors e.g. Cement, which are covered by CCAs.

	values of coal used in these different sectors. This breakdown is consistent with that used in the UK GHGI. It is not appropriate to include domestic or power station uses of coal as these are not covered by the CRC.
Peat	The UK GHG Inventory only includes peat as a fuel used in the domestic sector and commercial use is considered negligible. The request for an emission factor for peat to be included in the CRC by consultation respondents suggests that there is at least some commercial use of peat. Therefore, for completeness, an emission factor for peat will be included in the CRC. As there is limited information available the commercial/non-domestic use of peat, Government will use the domestic peat emission factor, which is consistent with the UK GHG Inventory.
BOS gas	In the UK energy statistics, BOS (Basic Oxygen Steel) gas is included within the totals for blast furnace gas. Therefore CRCwill use the blast furnace gas emission factor for BOS gas. This is consistent with the approach used for BOS gas in the UK GHG Inventory.

A number of respondents asked Government to confirm how biomass and renewables in general would be treated. In response to these requests, Government decided to define renewable fuels with reference to the Renewable Obligation Order 2009. As stated in previous consultations all renewable fuels and biomass will be zero rated. Annex C provides the updated fuels list.

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

The majority (70%) of respondents agreed with the proposed factors. Of those that provided comments a common request was for the fuel factors used in CRCto be aligned with those used in other schemes. Government would like to clarify that the majority of CRC emission factors originate from the UK GHGI. Four sources have been used to produce the final CRC fuels table, these sources are (in order of preference):

- Defra Greenhouse Gas (GHG) Conversion factors for Company Reporting 2009
- Latest UK Country-specific factors table prepared for the EU ETS, which is also based on the 2008 GHG Inventory
- The UK Greenhouse Gas Inventory (UK GHGI) 2009
- EU ETS default emission factors, from Commission Decision (2007/589/EC)

Government decided to use the fuel conversion factors listed in the Defra's Greenhouse Gas (GHG) Conversion Factors for Company Reporting[16] whenever possible. This is because the list is derived from the UK GHGI, but conversion factors are expressed in more user friendly units of measures. The emission factors are fuel specific but not industry specific (except for coal, which is broken down to domestic, industrial or power stations).

If a particular type of fuel, used by the CRC sectors, is not listed in the Defra GHG Conversion Factors for Company Reporting, Government decided to refer to UK country-specific emission factors used for the EU ETS Tier 2 level reporting. These are also derived from the UK GHGI. In the particular instance of peat, which is not available in either of the lists mentioned above, Government decided to use the conversion factor directly listed in UK GHGI. In the case of lignite, not available in any other conversion factor inventory, Government has decided to use the default conversion factor listed in the EU ETS Commission Decision (2007/589/EC), which is used in EU ETS for fuels that are used for the Tier 1 approach (the lowest reporting requirement). These emission factors are based on the 2006 IPCC Guidelines.

The electricity factor used is the UK five year rolling grid average emissions factor[17]. In the Government response to June 2007 consultation it was decided, having considered stakeholder views, that using the five year rolling grid average emissions factor was a reasonable and fair approach. This simplified the CRC reporting mechanism as it meant there was no need to differentiate between CHP electricity and grid electricity, nor prove the direct relationship between a CHP plant and the user of the electricity.

A decision tree used to identify appropriate sources for CRC emissions factors can be found alongside the fuels emissions table in Annex C.

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

Half of respondents to this question considered that there would be no unintended consequences from the proposed energy factors. Those who did identify unintended

[16] http://www.defra.gov.uk/environment/business/reporting/conversion-factors.htm

[17] The UK 5 year rolling grid average electricity conversion factors given represent the average carbon dioxide emission from the UK national grid per kWh of electricity used at the point of final consumption (i.e. transmission and distribution losses are included). The factor only includes direct carbon dioxide, methane and nitrous oxide emissions at UK power stations and do not include emissions resulting from production and delivery of fuel to these power stations (i.e. from gas rigs, refineries and collieries, etc.).

consequences did not raise additional points other than those already mentioned in response to the other questions on CRC fuels.

One unintended consequence raised by respondents is in relation to CRC emissions factors being fixed at the start of each phase. The decision to fix CRC factors at the start of each phase was announced in the 2007 consultation. This approach is preferable because the CRC is a mandatory scheme that will incentivise Participants to adopt energy management strategies to reduce emissions and improve their performance. If the underlying CRC factors were to change on an annual basis, a degree of uncertainty would be introduced that could affect any emission reduction strategy. Changing conversion factors annually would also impact on the number of allowances a Participant needs to purchase and would present a risk for Government not being able to accurately set the cap in 2013, as annual CRC sector emissions would be measured against different factors to those used to set the cap. Therefore Government will implement its decision to fix CRC factors at the start of each phase, this approach will be reviewed at the end of the introductory phase.

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

The majority of respondents to this question (74%) supported the disclosure of types and quantities of fuels not listed in the CRC fuels table. A few respondents commended the approach because it could inform the modification of the CRC in future phases.

Of those that made comments, several considered listing 'other fuels' was an unnecessary administrative burden. Government considers this information necessary as it will assist in the design of future phases of the scheme, but accepts the point that the obligation to disclose this information annually is too burdensome. Government has therefore decided to request this disclosure only as part of the Footprint Report.

Other respondents suggested that there should be a threshold in place so that Participants report the fuel only where they have used more than the threshold amount. Under this approach the same burden exists, as a Participant would still have to measure the amount of fuel used to determine whether it exceeded the threshold. Government will therefore use the approach for declaring any other fuels used, irrespective of the quantity consumed, as stated in the consultation, but limit this declaration to the Footprint Report only.

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

Just over 82% of respondents were supportive of Government's proposed treatment of mixed fuels. Clarification was requested on evidence required for reporting biofuel usage. As explained in the consultation, Participants may report only the emissions from the fossil fuel element of these fuels, but only where there is appropriate auditable evidence for the exempt biofuel content (stated fuel mix). Further guidance will be published on approximation techniques and will include information on techniques that could be used to estimate the fossil fuel content of the biofuel.

7.1.2 Application of the 10% estimation uplift

In section 9.3.2 of the consultation, Government proposed to apply a 10% uplift factor whenever energy consumption was reported on the basis of estimated bills for more than 6 months during any compliance year. Government wishes to encourage Participants to read their meters as it considers this to be the first step in energy management, and it aims to discourage customers and suppliers from using estimations whenever possible to improve the accuracy of energy bills. Uplift will not be applied on the emissions reported in the Footprint Report, as in this case this would incentivise estimation.

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?

Almost half of respondents answered this question. Of those that did 44% agreed with Government's proposed approach while 48% did not and 9% didn't know. Respondents' reasons for disagreement with Government's proposal ranged from suggesting that estimations should not be allowed at all, that the uplift was too small, that the uplift penalty penalised Participants with a large number of small sites, and citing that taking actual meter readings would be burdensome. There was also a call for greater clarity and guidance on application of the uplift.

Government has decided not to make any changes to how the 10% uplift applies to electricity and gas. For an annual electricity or gas bill to be treated as accurate, it

will be necessary that at least two meter readings are required during any compliance year.

Government has decided to amend the way the 10% uplift applies to the consumption of fuels other than gas and electricity. This is as a result of the change to reporting other fuels so that Participants can report their fuel consumption, rather than be deemed to have consumed the fuel at the point of delivery. Where a Participant can prove the quantity of fuel they have consumed either via invoices or delivery notes covering at least half the compliance year, then the 10% uplift is not applied in respect of that fuel supply. For example, if a Participant purchased fuel in April 2010, then again in November of that year, there are two data reference points covering eight months (more than half the compliance year) therefore the 10% uplift would not apply. This approach is consistent with how the estimation uplift is applied for supplied electricity and gas.

In those instances where a single bulk fuel purchase has been made and the fuel is in fact consumed in the course of several compliance years, the Participant would have the option to estimate the quantity of fuel consumed during the relevant compliance year and therefore will need to apply the 10% uplift factor to the estimated consumption.

In summary, the uplift will be applied to other fuel use where consumption is estimated and two or more data reference points covering at least half the compliance year are not available. The Environment Agency will publish guidance approximation techniques that can be used to estimate fuel use. Here are some examples of instances when the estimation uplift would or would not be applied:

- Single delivery within one year:
  - Treat the full delivery as amount consumed and don't apply 10% uplift
  - Estimate the amount consumed during the year and apply the 10% uplift

- Multiple deliveries covering < 6 months:
  - Treat the full deliveries as amount consumed and don't apply 10% uplift
  - Estimate the amount consumed during the year and apply the 10% uplift

- Multiple deliveries covering >= 6 months:
  - Treat the full deliveries as amount consumed and don't apply 10% uplift
  - Estimate the amount consumed during the year and don't apply the 10% uplift

More generally the 10% uplift will for estimated consumption of electricity gas and other fuels will only apply in respect of the CRC annual reporting, and **not** when calculating emissions for the Footprint Report. This is to avoid a perverse scenario when Participants who rely on estimates to calculate emissions for their Footprint

Report benefit from having their recycling baseline emissions inflated by 10%. Note that the Registry will apply the uplift automatically, where a Participant states that the reported supply is estimated to reduce the burden of a Participant doing the calculation themselves.

7.2 Treatment of electricity generation

Section 9.4 of the consultation outlined the proposed treatment of electricity generation and the system to acquire electricity credits. Any time a Participant generates electricity and the electricity generated is then supplied to a different person, the Participant will gain electricity credits measured using the grid average conversion factors, irrespective of the particular source or technology employed to generate the exported electricity.

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

Just over half of respondents answered this question. Of those that did, 54% did not identify any unforeseen consequences as a result of the proposal. Although some respondents supported Governments proposal and advocated the focus on energy efficiency, the most common single reason for disagreeing with Government's proposal was that requiring onsite renewables for which ROCs are issued to be reported at grid average emissions would discourage investment in renewable energy generation. This was predominantly a concern of the water and communications sectors. Respondents also suggested that electricity exempt from the Climate Change Levy should be treated as having zero emissions, and the exporters of heat and EU ETS covered generation facilities should receive energy credits. It was also advocated that Government consider how this proposal interacts with other Government policy such as the Renewables Obligation (RO), planned Feed in Tariffs (FIT) and the Energy Performance of Buildings Directive (EPBD).

The CRC complements both incentives for renewables such as RO and FIT, and other energy efficiency measures such as EPBD. Government believes that the principal goals of the CRC are to increase energy efficiency and to encourage fuel switching for heating purposes to lower carbon-intensive fuels. Therefore Government will continue to require that all of a Participant's electricity consumption is treated as grid average for the purposes of the CRC, except in the few instances where the Participant requires CRC allowances to cover the fuel used to generate the electricity, rather than for the electricity itself, or where the electricity is generated onsite by unsubsidised renewable sources. Government does not agree that this

‘disincentivises’ renewable generation, but agrees that the CRC does not add further incentive to the current framework of incentives which encourage renewable generation. The UK must achieve significant improvements in energy efficiency to reach our carbon goals, and the CRC is a key part of that. As such, it sits alongside EPBD, but captures not only buildings themselves, but the whole range of infrastructure and activities that an organisation undertakes. Government will review the treatment of heat in the CRC during the first phase of the scheme.

Government can confirm that the CRC will treat electricity which receives a FIT in the same way as electricity which is issued ROCs. Government has simplified the approach to reporting and accounting for renewably generated electricity, although the policy outcome remains unaltered. All electricity which is issued ROCs or FIT and exported to the grid or a third party will not be able to claim electricity generating credit but will not have to be reported as a consumed supply. Electricity issued with ROC or FIT which is generated and consumed on site will be required to apply the ‘renewables adjustment’, i.e. will be reported as consumption of an electricity supply at the grid average emissions factor, to ensure that the incentives to reduce demand from all electricity sources remain. In response to stakeholders concerns as to the lack of visibility in the CRC for organisation’s efforts to contribute to a low carbon economy via onsite renewables, Government will also publish data for electricity which is generated and consumed on site (see section 6.2.).

The amended approach to electricity exported to the grid/third party from renewable sources achieves the same outcome of exported renewable energy having zero net impact on reported emissions. However it is a simpler system, and mirrors the approach for nuclear power stations, large hydro and EU ETS installations as outlined in section 9.4.2 of the consultation.

Where biogas is used to generate electricity it is highly likely that the generator will be claiming ROCs for the electricity generated. Where ROCs have been claimed the electricity generated will be treated as described above in an approach that is now aligned with EU ETS installations.

Government can confirm that heat will be zero rated in CRC, because to properly account for the carbon content of the heat supplied would in many situations entail an administrative burden. This means that Participants importing heat do not have to account for any carbon that may be associated with its production. Because of this, there is no heat credit that is equivalent to the electricity generating credit.

A number of respondents raised questions about the treatment of CHP. CHP plants are treated, as has been set out in section 4.3 on supply. In particular heat from CHP plant is zero rated (for both the producer and consumer), and electricity is treated according to the general position on electricity generation.

One respondent commented that fuel used in standby generators should be excluded due to limited scope for improvement. Government is committed to incentivise efficiency in all energy uses as it believes that they all have some scope for improvement. Therefore, and in the interests of simplicity, Government has decided not to exclude standby generators.

7.3 Record Keeping

As described in section 9.5 of the consultation, organisations will be required to keep records in an evidence pack to support information provided to the Administrators. Question 49 of the consultation related to record keeping.

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

Yes / No
If yes, please explain your reasoning

The majority of respondents did not answer this question. Of those that did, 53% did not identify any unforeseen consequences regarding the evidence pack. As a result the policy on the evidence pack has not changed. Government acknowledges the significant number of concerns raised on the evidence pack related to the administrative burden of record keeping. However, it is vital for the integrity of the scheme that Participants maintain sufficient records in order that the information they submit can be verified during an audit. A significant number of respondents suggested that electronic rather than paper records should be admissible. Government can confirm that electronic records will be accepted as evidence.

The remainder of comments largely focussed on the need for clarification on what should be contained in the evidence pack. These have been noted, and the Environment Agency will publish further guidance on compiling an evidence pack.

7.4 The Registry

CRC will be administered via the online CRC registry as stated in the June 2007 and March 2009 consultations. Each Participant will have a compliance account and functions such as registration, reporting, and allowance purchasing and trading will all be carried out via the registry. The registry will be a simple, user-friendly and secure online system that allows Participants to manage their accounts and transactions. Question 50 in section 9.8 of the consultation related to the registry.

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

Yes / No
If yes, please explain your reasoning

Less than half (41%) of the total respondents answered this question. Of those that did respond, a significant majority (78%) did not consider that the wording in the Draft Order would lead to any unforeseen consequences. Where respondents did make comments on the Registry, these focussed on issues concerning differences between data from suppliers and from Participants. Although this is not directly related to the registry itself, Government expects Participants to use supplier data where available. Government anticipates CRC will encourage Participants to work with suppliers to ensure suppliers are providing timely information. As discussed in section 9.7.2 of the consultation, Participants will be able to request an annual statement from gas and electricity suppliers to ensure they have the necessary information to comply with reporting requirements.

Responses to this question also related to the security of the registry, and whether lessons from issues with the EU ETS and other similar registries and trading platforms had been taken into account.

In order to provide a high level of security against unauthorised access to the information that is provided to us under the CRC, and in common with an increasing number of government departments and agencies, access to the CRC online registration system will be underpinned by the Government Gateway security arrangements. Registration for CRC will involve a series of checks of the information provided at registration to validate the organisations which are registering and also the individuals nominated to represent those organisations.
Government would like to confirm, in response to one comment, that the registry will be the primary means by which the Administrators will communicate with Participants and vice versa. If there is a technical problem with the registry that affects the ability of Participants to comply with the scheme, the Administrators may adjust deadlines for compliance accordingly. The Environment Agency will issue guidance on the use of the registry.

Compliance, Reporting and Record Keeping: Summary of policy changes and developments

Fuels list. There are a few additions to the CRC fuels list including peat, BOS gas, and different grades of coal. Although zero rated, renewables and biomass will also be listed. Participants will be required to declare fuels used that are not listed in the table, but this will now only be required in the Footprint Year.

Fuel reporting. Government has decided to amend the policy on reporting consumption of fuels. Participants may report consumption of fuels on a use basis rather than on the basis of an entire fuel delivery.

Treatment of Feed In Tariffs. CRC will treat electricity consumed on-site which receives a Feed In Tariff (FIT) in the same way as electricity consumed onsite that is issued with ROCs. If the FIT is claimed, the electricity must be reported at grid average.

Exported Renewable Energy. All electricity which is issued ROCs or FIT and exported to the grid or a third party will not be able to claim electricity generating credit but will not have to be reported as a consumed supply.

Chapter 8: Audit and Enforcement

Chapters 10 and 11 of the consultation outlined the roles of the Administrators, the audit process and the enforcement mechanisms for CRC.

8.1 Role of Administrators

As discussed in section 10.1, the Environment Agency (EA) Scottish Environmental Protection Agency (SEPA) and Northern Ireland Environment Agency (NIEA) are appointed as joint scheme Administrators. The basic administrative functions will be carried out by the EA for the whole of the UK. Question 51 of the consultation related to the role of the Administrators.

Question 51. Does the wording in the Draft Order around the respective roles of the Administrators lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Only 39% of respondents answered this question. Of those that did respond only 19% thought that the drafting would lead to unforeseen consequences regarding the respective roles of the Administrators. The majority of comments suggested that there needed to be a clear framework for the administration of the scheme, particularly to avoid conflicts of interest between Participants and the Administrators. In addition, a number of respondents highlighted that it would be important for the Administrators to actively help Participants to comply with the scheme. One respondent commented that the powers of the Administrators were too wide.

The policy on the role of the Administrators has not changed. Broadly, the Environment Agency will be responsible for the day to day administration of the scheme for the whole of the UK, including operating the registry, facilitating the sale or auction, issuing safety valve allowances etc. Enforcement, monitoring, auditing and charging will be the separate responsibility of all three Administrators in respect of Participants located in their jurisdictions.

Government will only give the Administrators powers that are necessary to carry out its functions, and does not believe that these are two wide. The EA, NIEA and SEPA, as joint Administrators of the scheme, will work together on the basis a Memorandum of Understanding to ensure that joint functions are carried out effectively.

8.2 Audit

As stated in section 10.2 of the consultation, a significant number of respondents to the 2006 consultation urged a higher level of audits than the proposed 5%, at least in the early stages of the scheme, to generate confidence in the scheme's integrity. As a result, Government decided that around 20% of Participants will be audited each year, using primarily desk based assessments but also some site visits. Participants will be selected for audit with reference to the risk based framework outlined. Question 52 of the consultation related to the audit process.

Question 52. Does the wording in the Draft Order around the audit process lead to any unforeseen consequences?

Yes / No
If yes, please explain your reasoning

Of the respondents that answered this question, 24% commented on the unforeseen consequences around the audit process, while 76% of respondents did not identify unforeseen consequences.

Although the majority of respondents (76%) did not identify unforeseen consequences, some comments were made on the auditing process. These included concerns that the process may be an administrative burden on Participants and that auditing should be fair and not focussed only on well known organisations. Government has designed CRC to be as light touch as possible in terms of verification, and does not consider that it would be possible to reduce the evidence requirements or frequency of audits without risking the integrity of the scheme. Participants will not be audited on the basis of how well known they are. Around 20% of Participants will be audited each year, with reference to a risk-based audit mechanism for selecting Participants for audit. However, all Participants should expect to be audited at some point every five years.

Some respondents expressed concern about the resource implications for Participants involved in the scheme, particularly during audits. As audits will largely be based on a summary evidence pack provided by Participants, there should be limited additional impact as a result of the audit process.

Two comments suggested that either the number of audits should be increased if quality of data was found to be typically poor or conversely the proportion of audits could reduce over the course of the scheme. As with all aspects of the scheme, Government intends to monitor whether the audit process is adequate to ensure compliance with the scheme.

It was also suggested that there should be sufficient trained personnel to carry out the audits. The Administrators all carry out monitoring functions under other pollution control legislation and use trained personnel for these purposes. Similar processes will be adopted for CRC.

It was also requested that the time limits for keeping data are made clear. Government can clarify that organisations will be required to keep records for at least seven years after the phase to which they relate. In the case of the records which support data for a Participant's baseline year (2010/11 if you are participating from the Introductory Phase), these must be kept for the entirety of an organisation's participation in the scheme.

8.3 Enforcement

The March 2009 consultation was the first time Government had consulted on the enforcement policy for CRC. In section 11.1 of the document, Government stated that CRC will be as 'light touch' a scheme as possible and rely on Participants' self-certification of energy use. Therefore strong penalties are required to deter abuse and secure compliance. In addition to considering the consultation responses, Government has also carried out additional analysis of the enforcement regime, including further economic modelling to ensure that the revised framework is both fair and sufficiently robust to incentivise compliance. Our overall approach to enforcement as outlined in sections 11.1 and 11.2 of the consultation has not changed, however some of the specific elements within the enforcement regime have changed. A complete list of the revised civil penalties is provided at the end of this section.

In the consultation, Government asked questions relating to each element of the enforcement policy. A number of similar responses were made for several questions. These general comments, which tended to also be the most common responses for any question, focussed on the following:

1. The penalties and offences should be used as a last resort;

2. Help with understanding compliance should be provided to ensure Participants do not incur penalties through lack of knowledge of the scheme;

3. Some penalties for non-compliance could be incurred very suddenly so more warning should be given;

4. The enforcement policy is too stringent, and the penalties should be lower for a light touch scheme;

5. The Administrators should be able to apply leniency, particularly where errors made are unintentional;

6. Penalties should be applied on the particular member of an organisational group which had failed to comply.

It is Government's intention that the penalties and offences should only be used as a last resort. The Administrators will be working to ensure that organisations are given adequate guidance to enable them to comply fully with all obligations in CRC. It is planned that guidance on any particular area of the scheme will be available at least 6 months in advance of an organisation needing to take an action covered by that guidance. The Administrators intend to send advanced notices that deadlines for taking actions are approaching, and what the relevant penalty will be should an organisation not comply.

However, it remains important for a robust enforcement mechanism to be in place. If penalties are not high enough to ensure the costs of non-compliance exceed those of compliance, there is an incentive not to comply with the scheme. Not only would this prevent CRC from fully achieving its goals of energy efficiency and emissions reductions, it also has the potential to unfairly disadvantage organisations which do comply. It is therefore in everyone's interest that the enforcement provisions, while fair and proportionate, provide adequate incentive to comply.

Government wholly agrees that it may be appropriate for the Administrators to waive or reduce penalties in certain circumstances. This is particularly the case in the early years of the scheme when Participants are adjusting to their new obligations. The legislation provides for the Administrators to apply discretion to the application of penalties, providing that certain tests are met. These are that an organisation has taken all reasonable steps to comply or rectified an error as soon as it came to their attention, and the Administrators consider that it would be unreasonable to impose the full penalty. The penalty can then be reduced or waived, or the time to pay a financial penalty can be extended. Given the self-certification of emissions in CRC, Government wants to encourage organisations to notify the Administrators when they identify that they have made errors in reporting. Government would expect the Administrators to show leniency in these cases, particularly where an organisation cannot be deemed to have gained financially from a reporting error.

With regard to applying penalties to a particular group member, Government does not consider this a feasible option. The obligation to comply rests on the participating as a whole, apart from certain groups of public bodies where the obligation resides with the entity in whose name the compliance account has been set up. It would not be appropriate, or necessarily possible, for the Administrators to determine which part of an organisation was responsible for causing a non-compliance.

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

The majority of respondents did not respond to this question. Of those that did respond, more were in agreement with the level and type of penalty imposed for failure to register (67%), than against (32%).

The comments raised with regard to this question were those general issues already discussed above. As a result of the further work carried out during the consultation process, Government has made the following changes to the penalty for failure to register. Rather than the daily rate fine accumulating until the next reporting deadline it will now accumulate for 80 working days, which is an equivalent timescale to the next reporting deadline.

In addition to the penalty for failure to register at all, Government also considers it necessary to include a penalty for failure to register accurately. Under the single penalty for failing to register, it would be possible for an organisation to have complied but not to have included all parts of its organisation. CRC is intended to be organisation based and requires organisations to accurately assess their structure and include all parts of their organisation. Therefore an additional element to the registration penalty is necessary.

For each settled HHM for which an organisation is responsible but fails to declare in its meter list at registration, the civil penalty will be a fixed financial penalty of £500 per settled HHM not declared. Relating the penalty to numbers of settled HHM not declared makes the penalty proportionate to the magnitude of the non-compliance. The Administrators will also publish details of the non-compliance.

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

The majority of respondents did not respond to this question. Of those that did respond, only 23% disagreed with the penalty. A number of the general comments outlined above were raised in relation to this question. In addition, respondents also thought that the penalty should be scaled to the type of non-compliance, or that a penalty should not be applied to non-participant organisations.

It is vital that the Administrators can account for all half hourly meters settled on the half hourly market in the UK, to ensure that all qualifying organisations have registered for the scheme. Therefore, the enforcement regime needs to provide adequate incentive for information declarers to submit the necessary information. However Government has taken on board the comments on scaling the penalty and is therefore changing the financial penalty for non-compliance to £500 per settled HHM which an organisation did not disclose. This achieves a lower fine than that proposed for those smaller non-compliant information declarers which have only one settled HHM. For those organisations with several settled HHM Government estimates that the cost of compliance may be higher than £1,000 and it is therefore appropriate to have a potential fine greater than this in order to ensure that there is adequate incentive to comply.

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

The majority of respondents did not respond to question 55. Of those that did respond, more were in agreement (55%), than were against (42%). For question 56, 49% of respondents did not agree with the level of penalties for failure to provide an Annual Report.

In addition to some repetition of the general comments, it was suggested that different penalties should be applied to different Participants. Government does not consider this an appropriate approach. The failure is the same whether the Participant is a public sector or private sector organisation, and Government does not consider that the costs of compliance are consistently different between different types of Participants. Therefore different penalties would not incentivise compliance either adequately or fairly.

Some respondents argued that a variable fine for failing to comply with reporting obligations that was related to the tonnes of CO_2 may be unfair to larger Participants, although other comments suggested that the fine should be proportionate to the size of the Participant. On the basis of our additional analysis, Government agrees that a fine linked to tCO_2 could potentially result in a very large fine for a Participant which

submitted its report only a day late. Further, for smaller Participants, the fine linked to tCO_2 may not in fact be sufficient to exceed the costs of compliance and would create a perverse incentive not to submit reports. Therefore, Government has now altered this penalty so that the variable element of the fine is now £500 per working day of delay.

In the case of the penalty for failing to submit an Annual Report, the position remains unchanged that a Participant failing to submit, even after the forty day variable fine period, would be placed at the bottom of the league table alongside the worst performer, and total emissions for the year would be doubled. These requirements are necessary not only to incentivise compliance but because, should a Participant grow significantly, there would be an incentive not to report and instead allow the Administrators to determine its emissions. Determinations will be done using available data, which will typically be the previous year's annual CRC emissions reported. If the Participant has grown significantly, a determination would underestimate its actual emissions and consequently enable a Participant to surrender fewer allowances than it actually should to meet its performance commitment. Doubling the emissions of a Participant where it fails to submit a report will remove the incentive to play the system in this way. While a Participant will be required to purchase allowances to cover the doubled emissions total, the doubled emissions total would not be included in the five year rolling average as this has the potential for Participants to appear to perform exceptionally well in reducing emissions in future years.

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 explain reasons

Of those respondents answering this question 61% agreed with the proposal compared to 30% that did not. In addition to the general comments restated in response to this question, there were some additional comments and suggestions. The first asked for clarity on depriving a Participant of the recycling payment. In the case of this penalty, it would only mean placing a Participant at the bottom of the league table so that they will be subject to the maximum recycling penalty. They would not forfeit their entire recycling payment.

A second suggestion was that rather than moving a Participant to the bottom of the league table, they should be subject to a percentage reduction in their position. Government does not consider it appropriate given that depending on the shape of the league table in any particular year, the impact of a particular percentage reduction in position may vary hugely. Finally, it was also pointed out that the impact

of this part of the penalty will increase in future years due to larger bonus/penalty rates for the recycling payment. As many comments suggested penalties should be more lenient in early years, Government believes this part of the penalty directly achieves that outcome.

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

There was a fairly even split between those respondents who agreed with the level and type of penalties imposed for incorrect reporting (50%) and those that disagreed (47%). Four respondents were unable to decide.

Respondents who disagreed with the level and type of penalty predominantly commented on the issue of leniency for genuine errors and cases where Participants brought their errors to the attention of the Administrators. As discussed previously, Government intends that the Administrators can use their discretion to waive or reduce the penalty in these cases, where the organisation has taken all reasonable steps to comply or rectified an error as soon as it came to their attention, and the Administrators consider that it would be unreasonable to impose the full penalty. Some respondents sought clarification on how estimated energy supplies would be treated under the incorrect reporting penalty. Where estimates have been correctly calculated according to the guidance provided by Government, estimated consumption will not be treated as inaccurate, and would not be subject to a penalty.

A number of respondents suggested that a fine in relation to emissions would be disproportionate for larger emitters. To clarify, this penalty would be applied only per tCO_2 that is incorrectly reported above the allowed margin of error. It is not a £40 per tonne for all a Participant's emissions. This is to ensure that it is proportionate to the magnitude of the error. It should also be noted that, as the allowable margin of error is 5% a Participant will only be fined per tCO_2 incorrectly reported beyond that margin. Therefore if a Participant underreports by 5.1%, the fine will be calculated per tCO_2 for that extra 0.1% above the allowable margin of error.

A small number of organisations suggested that the 5% margin of error was too small, particularly in the early years of the scheme. Government wants to encourage Participants to monitor energy supplies as accurately as possible from the outset. It is also important, in order that an appropriate level for the cap can be assessed, that Government obtains as accurate data on emissions for the sector as possible during the Introductory Phase. Government has therefore decided to maintain the 5% margin of error.

The penalty for incorrect reporting has also not changed. However, Government considers that there are aspects of the reporting requirements in CRC which are not adequately covered by this penalty. While much of the data reported does relate to or affect the accuracy of emissions totals, certain types of information that Participants must or may choose to provide do not. These include notification of designated changes, declaration of the emissions totals of SGUs and Early Action and Growth metric data. Government is therefore introducing a penalty for failing to accurately report this information. In line with the form of other penalties, this will be a civil penalty consisting of a financial penalty and publication of the non-compliance. Where the information does not impact on performance in the league table the financial penalty will be a fixed fine of £5,000. Where the information does result in improved position in the league table, the fine will be £5,000 plus double the amount of any financial gain achieved from that higher position. Without this second part of the penalty there would be an incentive to provide inaccurate information for the Early Action and Growth metric in order to receive a larger recycling payment. It should be noted that there is no allowable margin of error for the inaccurate information penalty.

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

Of the respondents that answered this question, 59% agreed with the level and type of penalties imposed for failure to comply with the performance commitment whilst 35% disagreed, and 6% were unsure.

In addition to a number of the general comments raised, respondents suggested that the penalty would disadvantage large Participants and that the penalty should be proportionate to the offence rather than linked to tCO_2 for which allowances had not been surrendered. Government considers that the proposed penalty is proportionate to the offence given that the greater the magnitude of non-compliance (number of allowances not surrendered) the larger the fine. It is in the interests of all Participants to provide adequate incentive for Participants to purchase and surrender sufficient allowances so that other Participants are not disadvantaged by there being a smaller recycling pot. The level of the fine is also consistent with the level of the equivalent fine in the EU ETS.

Government has however made some changes to this penalty to ensure that the integrity of the scheme is maintained. It is important that Participants which fail to surrender sufficient allowances at the deadline do rectify this situation and purchase

allowances, in order to ensure that the cap remains robust. The revised CRC Order will require Participants to purchase the shortfall of allowances as soon as possible. Where they have not done this by the end of the current compliance year, the shortfall will be added to their performance commitment total to be surrendered by the next July deadline.

Government has also considered the possibility, under the consultation proposals, that a Participant which had failed to surrender any allowances would still receive its recycling payment for that year. Government believes that it is unreasonable that such serious non-compliance should be rewarded. Government will therefore withhold the recycling payment of Participants which have not surrendered sufficient allowances, until those allowances are surrendered. If a Participant has failed to do so by the end of the compliance year following the deadline, the recycling payment would be withheld permanently. This will be the penalty where a Participant is discovered, at the point of reporting and surrendering, to have not complied with the performance commitment.

Where the failure to comply with the performance commitment is discovered as a result of the audit process because reporting errors are discovered, the Participant will instead be subject to a penalty for latent failure to comply. In this case the penalty for the 'latent' failure to comply with the performance commitment will be that the Participant will have the shortfall of allowances added to their performance commitment requirement for the current compliance year. They will also incur the penalty of publication. Where an organisation is no longer a Participant the penalty will be a fine equal to the value of the shortfall of allowances determined by the price in the most recent sale or auction.

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

Just under half of respondents (45%) answered this question. Of those that answered, 51% agreed with the level and type of penalties imposed for failure to keep adequate records. 45% of those that answered the question disagreed, with only 4% of respondents unsure. A number of the general comments above were reiterated. It was also suggested that this penalty should be made proportionate to the extent of the error and it was unclear what constitutes adequate records and therefore a failure to comply.

Government agrees that a fixed fine of £5/tCO_2 may not be proportionate to the extent to which an evidence pack does not provide sufficient evidence to support

reported data. If an evidence pack provides none or almost none of the required evidence and the Administrators are therefore not able to verify any of the information provided, then £5/tCO_2 would be insufficient. Government has therefore changed the level of this penalty. The financial penalty will now be £40/tCO_2 of the CRC emissions recorded in the Participant's most recent report. However the administrators will be able to exercise discretion in cases where the organisation has taken all reasonable steps to comply or rectified an error as soon as it came to their attention, and the Administrators consider that it would be unreasonable to impose the full penalty. For example, where an evidence pack is only partially incomplete the Administrators may decide to exercise their discretion and impose an appropriate lower penalty. Government will provide detailed guidance on what records must be contained in an evidence pack.

One respondent also pointed out that there was a double jeopardy associated with the current drafting of this penalty, as it included a financial penalty and an enforcement notice which has its own criminal offence should an organisation fail to comply with that notice. Therefore the notice served to outline what elements of the evidence pack require rectification, and a deadline for remedying the situation will not be an enforcement notice and will therefore not incur a criminal offence for non-compliance with the notice. The penalty incurred if an evidence pack is still not adequate following this notice will be the financial penalty and publication.

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

Just under half of respondents (43%) answered this question. Of those that answered, 73% agreed with the procedure for a failure to comply with civil penalties, 20% disagreed, and 8% were unsure. A number of the general comments were reiterated by respondents. Respondents also suggested that the period of 20 days to pay a penalty was too short or should be open to negotiation. In response to these comments Government has adjusted the time allowed to pay penalties to 60 days. One respondent also suggested there should be a commercial rate of interest charged for late payment of penalties. For simplicity there will be no interest charged on late payment of penalties.

Table 2: Revised Civil Penalties

Non-compliance	Penalties
Failure to register	• Immediate fine of £5,000, imposed for failure to register by the deadline • Further fine of £500 per working day for each subsequent working day of delay up to a maximum of 80 working days • 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 £500 per settled HHM for which that organisation is responsible.
Failure to make a complete registration (New penalty)	• Where an organisation registers, but fails to do so on behalf of all parts of their organisation, a fine of £500 per settled half hourly meter for which the organisation is responsible but was not included in its registration • Publication of non-compliance
Failure to provide Footprint Report	• Immediate fine of £5,000, for failure to provide a Footprint Report by the reporting deadline • Further fine of £500 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 £5,000, for failure to provide a Annual Report by the reporting deadline • Further fine of £500 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 • Emissions are doubled only with regard to that year's performance commitment requirement (doubled figure will not count towards the Participants rolling average). • 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 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
Incorrect information (New penalty)	• Where an organisation fails to provide accurate information in its reports, and where that information does not affect the emissions totals, a fine of £5,000. • Further, where that inaccurate information affects the Participant's performance in the league table, and additional fine of double the amount of any financial gain achieved from improved performance score. • Publication of non-compliance
Failure to comply with the performance commitment (surrendering sufficient allowances)	• Fine of £40/tCO_2 in respect of each allowance that should have been obtained and surrendered • Must obtain and surrender the outstanding balance of allowances. • Continued failure to remedy shortfall will result in recycling payment being withheld until the Participant complies. • If a Participant fails to comply by the end of the compliance year, they will not receive their recycling payment. Outstanding allowances will then be added to their performance commitment requirement for the following year • Publication of non-compliance • Administrators will block the transfer of all allowances out of the Participant's registry account until all necessary allowances are surrendered
Latent failure to comply with the performance commitment	• Where the non-compliant organisation is still a Participant, the shortfall of allowances is added to their current compliance year's performance commitment total. • Publication of non-compliance • Where the non-compliant organisation is no longer a Participant, a fine equal to the value of the shortfall. The value of the shortfall is determined with reference to the price of allowances in the most recent Government sale or auction.
Failure to keep adequate records	• Fine of £40 per tCO_2 of the Participants CRC emissions in the most recent compliance year • Publication of non-compliance
Failure of franchisee to provide information to a franchisor	• Where a franchisee has failed to provide information to a franchisor which has prevented the franchisor complying with its obligations under the Order, the Administrators may impose an enforcement notice on the franchisee.

Question 62. Do you agree with the proposed enforcement process for this obligation?

Yes / No / Don't know
If no, please explain reasons

The majority of those who answered (64%) agreed with the proposed enforcement process for the supplier obligation, while the others either disagreed (25%) or marked their answer as don't know (10%). Although some respondents that disagreed thought the penalty was too high, a number also suggested it was too low or that it was not stringent enough in comparison with the penalties on Participants. There was concern that the penalty where a supplier has failed to provide information to the customer would only be applied where there was a persistent failure.

Government considers it would be impractical for the regulator (Gas and Electricity Markets Authority for Great Britain, NIAUR for Northern Ireland) to be involved in every dispute between customers and suppliers. However, where failures are persistent, the regulator has the flexibility to impose a fine of up to 10% of the supplier's turnover so the option to impose significant fines exists and should provide sufficient incentive for suppliers to comply. Government is therefore not altering the enforcement of this obligation as outlined in the consultation.

Question 63. Is the appeals process clear and reasonable?

Yes / No / Don't Know
If no, please explain reasons

The majority of those who answered agreed that the appeal process is clear and reasonable (67%) while the others either disagreed (24%) or marked their answer as 'don't know' (9%).

The most common reason for those who disagreed was that the 20 days period within which to lodge an appeal was too short. Although Government wants appeals to be carried out promptly, Government has taken this into account and the period is now 40 working days, which is consistent with the two month time period provided under the EU ETS.

A number of respondents also suggested that the appeals body should be independent from the Administrators. The appeals body will be the Secretary of State for England, the Welsh ministers for Wales, the Scottish ministers for Scotland, and the Department of the Environment for Northern Ireland, and will be functionally

independent from the Administrators. However, as stated in the consultation, Government intends to monitor the volume of appeals and will consider using the First Tier Tribunal once the appropriate chamber for dealing with CRC appeals is created.

It was also suggested that the league table should be published after appeals have been resolved. While Government appreciates that this may be desirable, it would mean potentially delaying the publication of the league table and therefore recycling payments for several months. Government does not consider that this would be an acceptable option to most Participants. It was also suggested that the publication of non-compliance should not occur until after appeals had been processed. The Administrators will not publish details of non-compliance until after the 40 day period to lodge an appeal has ended. Any appeal which is then in process precludes the publication of non-compliance, until the appeal process has ended.

In considering appeals further, Government has made some minor changes to the process. In addition to determinations and civil penalties which may be appealed, Participants will also be able to appeal the imposition of an enforcement notice. Government has also replaced the provision to appeal a position in the league table with a provision to have a league table position verified by a third party. This is because performance in the league table is determined by a calculation methodology. This requires verification only for accuracy and does not involve a legal determination. Therefore Government considers third party verification to be a simpler and more appropriate process for dealing with disagreements on league table performance. Where a Participant applies for third party verification the Participant and the Administrators will pay their own costs and half the costs of the third party. As set out in the consultation, if the position of the Participant is deemed incorrect as a result of the verification process, then that Participant will be entitled to be paid the additional amount of recycling revenue they should have received. This payment will be made in the next compliance year and be funded out of that compliance year's sales revenues. The Administrators will publish a revised version of the league table taking into account the outcomes of third party verifications.
Although Government's intention on appeals procedure has not changed significantly, for legislative simplicity, Government has removed some of the administrative procedures for handling appeals from the revised CRC Order. The appeals bodies will publish procedural policy in due course.

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

A majority of those who responded (68%) agreed with the level and type of punishment proposed for criminal offences while 23% of respondents disagreed with the proposals.

In addition to the general comments raised, a small number of respondents suggested that there was overlap between the elements of the criminal offences to deal with falsification and provisions already existing in the Fraud Act. The Fraud Act would not be adequate for CRC given that it does not cover Scotland and the provisions are also narrower than those required for CRC. Therefore Government has not changed the criminal offences provided for in the CRC Order.

One minor change that Government has made to the criminal offences is that the prison term for offences tried summarily in Scotland will be determined according to their own statutory maximum of 12 months.

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

Among those who responded to this question, 53% agreed with the overall approach that the Government has taken to enforcement of the CRC.

Many responses to this question reiterated the general comments raised earlier or other points covered in earlier questions on enforcement or other areas of the policy. Other responses suggested that there should be prior notice given before inspections are undertaken as part of the audit process. In normal circumstances the Administrators will request a summary evidence pack as the first stage of any audit and give notice, as appropriate, of a site-based audit.

Four respondents also queried the destination of money from financial penalties. This money is collected by the relevant Administrator and is then passed to the relevant Secretary of State or Minister and is paid into the Consolidated Fund.

Audit and Enforcement: Summary of policy changes and developments

Civil Penalties. Government has decided to make small changes to the way the penalties for non-compliance with registration, reporting, record keeping and information disclosure are calculated. There are also additional penalties for failing to register accurately, failure to provide accurate information and a provision to serve an enforcement notice on a franchisee.

Appeals. Government has extended the time period for lodging an appeal from 20 to 40 days. Verification of a Participants' league table position will now be done by independent verification rather than an appeal.

Chapter 9: Fees and Charges

In Chapter 12 of the consultation, Government stated that the CRC scheme administration and regulation costs would be recovered via a charging framework. Government proposed to set charges in the CRC Order, and that a single set of charges would apply throughout the UK. The charges are based on general principles outlined in the consultation. Government proposed the following charges; a one-off registration charge for Participants (£950); an annual subsistence charge for Participants (£1,300pa); a one-off registration charge for non-participant account holders (third parties) (£285); an annual subsistence charge for non-participant account holders (third parties) (£390pa); a Safety Valve purchase charge (£300 charge for each request), and an ID check charge (£200). Question 66 related to the fees and charges in CRC.

Question 66. Government would welcome feedback on the approach set out on:
(i) the charging proposals;
(ii) charging in the CRC Draft Order;
(iii) the approach to audit charges.

Just under half of respondents provided answers to this question. There were three areas which generated the largest number of responses. These were the application and levels of the scheme's charges; monies held by Government following payment of charges and wording of the Order which related to fees and charges.

Seven of those who responded to part (i), said the charges were set at the right level. However the majority said that all charges, for registration, subsistence, Safety Valve purchases and ID checks were too high. This was particularly the case for those charges applied to companies exempt from the scheme and other third parties. Respondents suggested a number of alternatives including that exempted companies should not be charged at all, Participants could be rewarded for improved energy efficiency with reduced charges and that one Safety Valve charge should apply to all requests to purchase carbon allowances during the first phase of the scheme. Clarification was sought regarding charges, particularly those associated with audits.

The CRC is supported almost entirely by fees and charges contributed by Participants, exempted organisations and other third parties. The fees and charges have been costed to be as low as possible. A breakdown of how fees will be utilised in the running of the scheme was provided in section 12 of the consultation. All monies contributed by organisations involved in the scheme will be used for the

transactions specified in the consultation. They will not be used for any other purpose.

All organisations, Participants and others which are involved in the scheme will have to pay charges of one kind or another as the Administrators will have to undertake work of some kind on their behalf, such as registration, implementation of accounts and so on, which will incur costs. Exempted entire organisations, such as those with emissions covered by CCAs, will pay the one-off registration fee only. This will cover the costs of registering the information needed to demonstrate compliance with the exemption criteria and sample audits. Audits are required by the scheme in order to ensure compliance and are vital to the efficacy of the scheme because CRC does not require third party verification of data in order to reduce costs to Participants.

Some Participants suggested off-setting charges against income such as the revenue recycling. Government has decided that this would add to administration and therefore could increase costs. Charges are made for each purchase of carbon allowances via the Safety Valve as there are costs associated with each transaction. Government has decided to set the subsistence fee at £1,290. A £10 fee will be charged for the fixed price sale, which is payable only if Participants take part in the sale of allowances. Additionally the ID check charge has been reduced to £70 as a Participant's account representatives will be required to purchase digital certificates directly from suppliers rather than having their ID verified through the Administrators. Government has decided that other charges will remain the same as outlined in the Consultation. Government has decided to allow organisations to claim exemption from the CRC scheme if they hold a Climate Change Agreement. As a result, these organisations will still have to register for the scheme and so pay the registration fee of £950, but will not be required to pay the annual subsistence fee. The finalised charging regime is shown in table XX below.

Table 2: Finalised CRC charging regime

Activity	**£**
Participant registration(including CCA holders)	950
Participant annual subsistence fee	1,290
Fixed price sale fee	10
Safety valve charge (per transaction)	300
Non-participant registration (third parties)	285
Non-participant subsistence fee	390
ID check charge	70

Thirteen respondents commented that interest earned by Government on Participants' monies should be returned to the scheme to offset Participants' costs, for example to reduce registration and audit costs. Revenues from the CRC will be paid into the Consolidated Fund, in line with Government practice, and are not being held separately. The Consolidated Fund does not pay interest.

One respondent asked that the audit process should be described more clearly. Additionally, one respondent suggested that data from Environmental Management Systems could be used and so remove the need to comply with external audits. Respondents expressed concern about the resource implications for Participants during audits. Please refer to Section 8 for information on the audit process.

Fees and Charges: Summary of policy changes and developments

Subsistence fee for Participants: The subsistence fee has been set as an annual fee of £1,290. An additional £10 fee will be payable for participation in the fixed price sale.

ID Check Charges: The ID check charge has been reduced to £70 as the named representatives for each Participant's account will be required to purchase digital certificates directly from suppliers rather than having their identity verified through the Administrators.

Annex A – Significant Group Undertakings

A1 – Significant Group Undertakings for reporting purposes

A Principal Subsidiary is now described under the term 'Significant Group Undertaking' (SGU) and it is assessed on the basis of whether it would have fulfilled the qualification criteria in the qualification year, if it were not a subsidiary of another organisation. The criteria should be applied at every level at which there is a subsidiary- parent relationship to identify all the SGUs within a Participant. For example, in the diagram below, each coloured, dotted box delineates a SGU grouping. From this it is clear that an SGU can be either a single entity or a group of constituent entities.

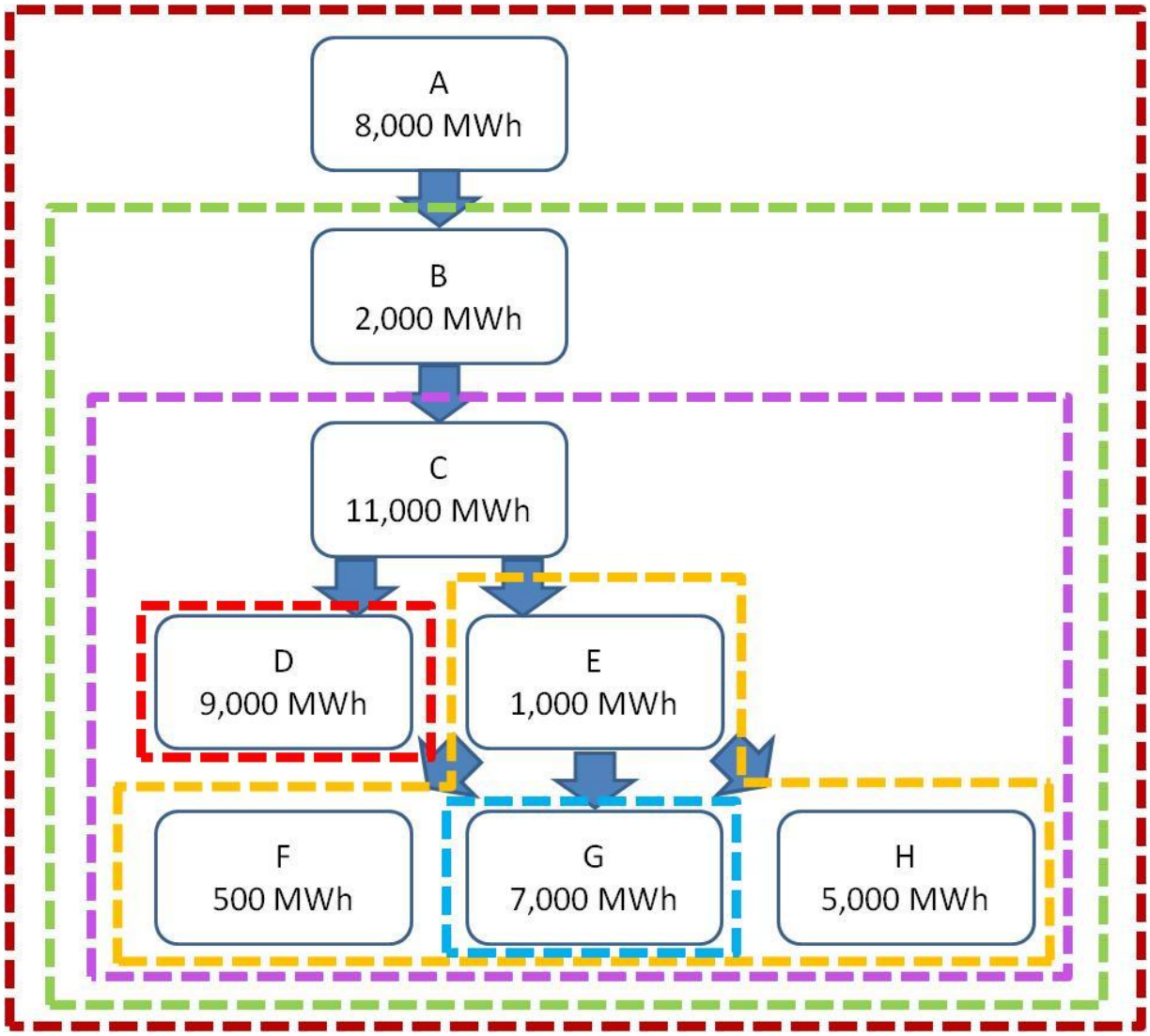


Figure 3: Diagram of SGU within a Participant for reporting purposes

As can be seen from this diagram, there are likely to be situations where there are Significant Group Undertakings within Significant Group Undertakings. Each SGU

must be a single entity or grouped under a parent. For example, a group made up of F, G and H is not a SGU without their parent E, even though their electricity consumption is high enough to qualify.

A number of organisations requested further clarification regarding how the reporting process will work. Organisations will have to notify the Administrators of their group structure as part of the registration process by providing a small number of details for each of its SGUs. When a Participant makes its Annual Report via the registry it will have to include a subtotal for the CRC emissions of each of its SGUs. If this example group participated as one Participant, they would have to report an emissions subtotal at each dotted line in their annual report. In the example above the Annual Report would include the following:

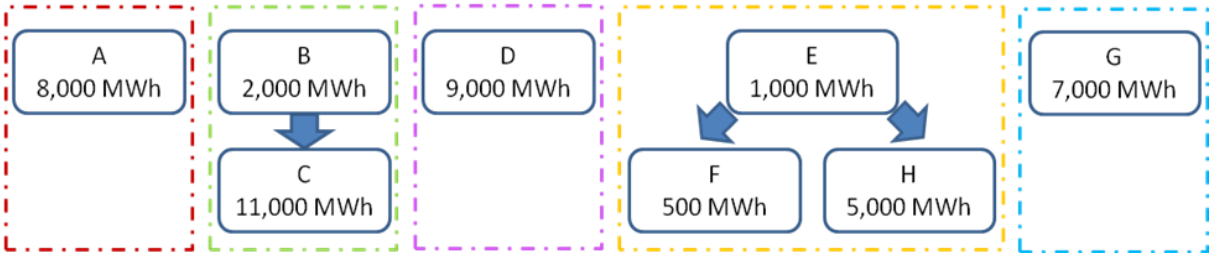
- Under A's name the emissions for A,B,C,D,E,F,G and H would be reported as a total figure for each type of supply
- Under B's name the emissions for B,C,D,E,F,G and H would be reported as a single total emissions figure
- Under C's name the emissions for C,D,E,F,G and H would be reported as a single total emissions figure
- Under D's name the emissions of D only are reported
- Under E's name the emissions for E,F,G and H would be reported as a single total emissions figure
- Under G's name the emissions of G only are reported

A2 – Significant Group Undertakings for Disaggregation

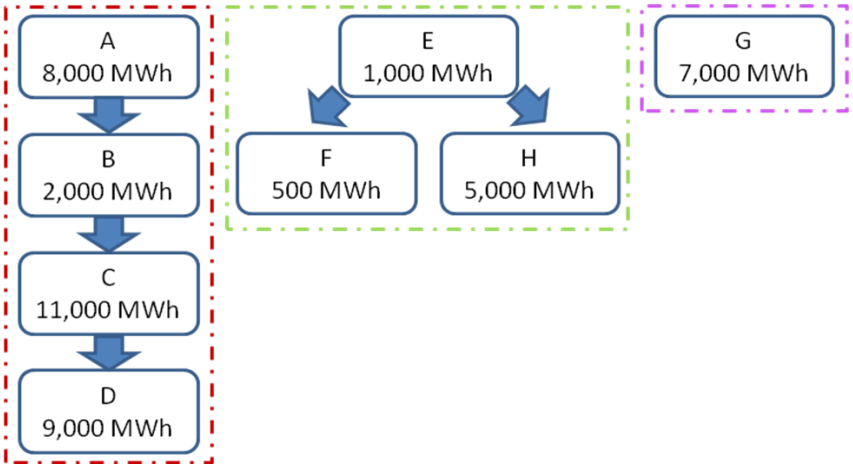
For the purposes of voluntary disaggregation, the disaggregated part can consist of *any* SGU grouping under a common highest parent, providing the original parent grouping that remains has electricity consumption that exceeds the qualification threshold. Single group members that would have qualified in their own right if they were not part of a group may disaggregate too.

As well as the groupings shown by the dotted lines in A1, some examples of other permutations of disaggregation possible are shown below. There are, however, several other possible permutations for this example group which are not shown below.

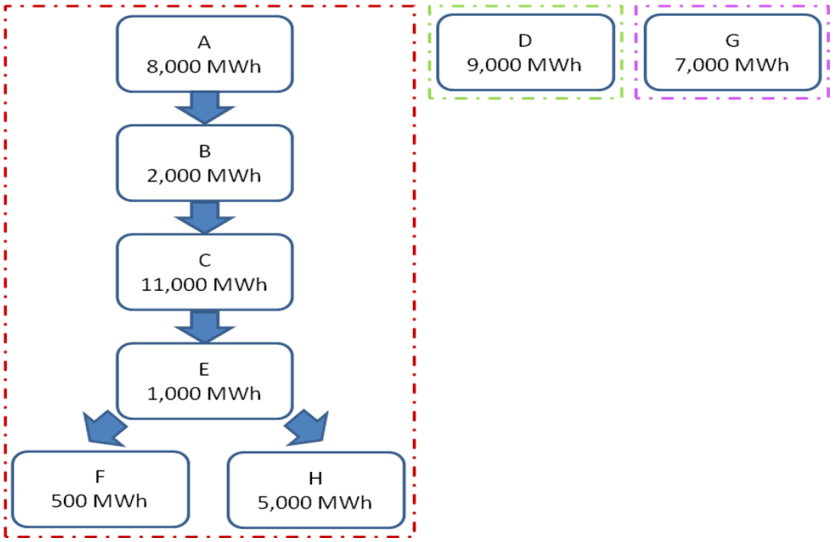
A can be a disaggregated Participant, B and C together can be a disaggregated Participant, D can be a disaggregated Participant, E,F and H together can be a disaggregated Participant, and G another disaggregated Participant:



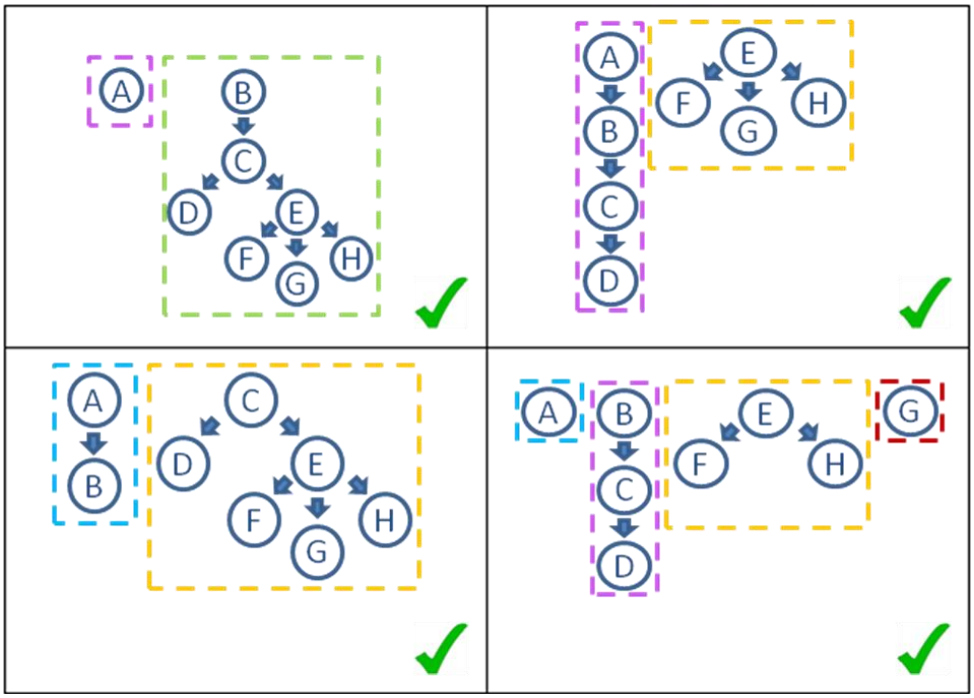
Alternatively, A, B and C, and D could choose to participate as a group and G could choose to participate independently as follows:



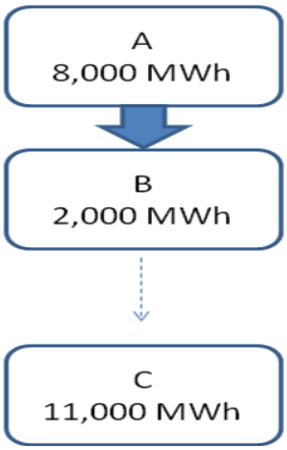
Another alternative would be the following disaggregated Participant groupings:



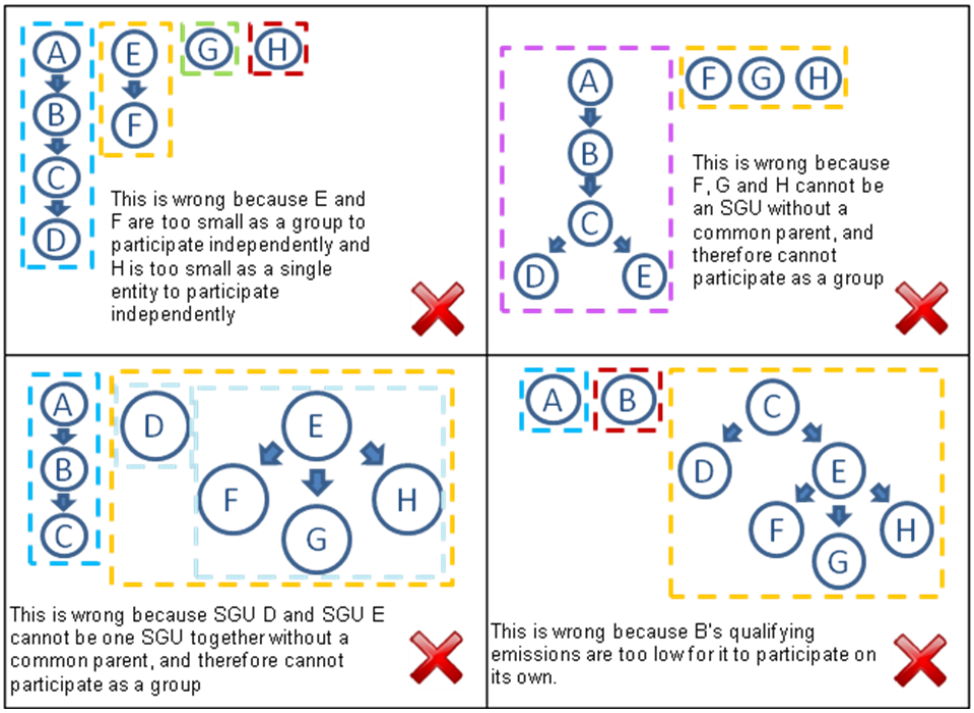
The table below demonstrates four more possible disaggregation options for the group:



In Figure 3 above, disaggregation of any of the sub-groupings indicated by the dotted lines would be possible, but if C disaggregated from A and B, B would not be able to disaggregate from A as well.



The table below demonstrates four groupings that would not be able to register as independent Participants:


A
B
C
D
E
F
G
H
This is wrong because E and F are too small as a group to participate independently and H is too small as a single entity to participate independently
This is wrong because F, G and H cannot be an SGU without a common parent, and therefore cannot participate as a group
This is wrong because SGU D and SGU E cannot be one SGU together without a common parent, and therefore cannot participate as a group
This is wrong because B's qualifying emissions are too low for it to participate on its own.

Annex B - Examples of Machinery of Government Changes

There are essentially four main types of Machinery of Government (MoG) change which will be recognised under the Carbon Reduction Commitment. For each of these changes updates will need to be made to recycling baselines and historic averages. Government will provide further guidance on this topic.

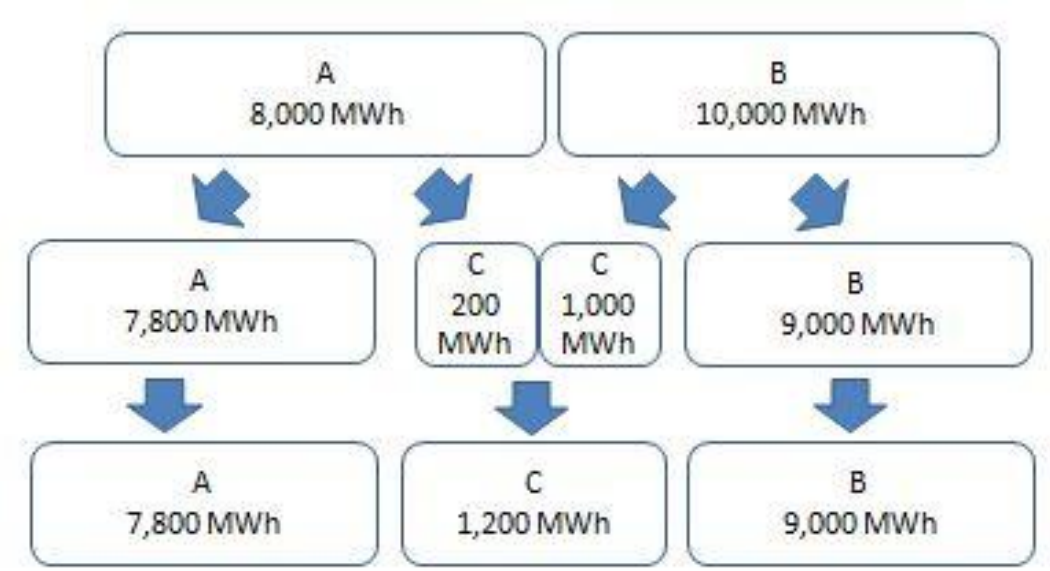
The responsibilities of those involved in Machinery of Government changes are described below.

1. **Creation of a new department**

To show leadership the Government wants new departments to start participating in the CRC as soon after their creation as possible. Therefore new departments will be required to register three months after their creation and will need to compile an Annual Report for the full financial year in which they were created ('year 1'). The year after they are created ('year 2') they will be required to submit a Footprint Report and an Annual Report, in advance of their first full compliance year which will start in the second year after the department was created ('year 3'). It is from this compliance year onwards that the new departments will be required to purchase allowances, feature in the league table, and will receive recycling payments.

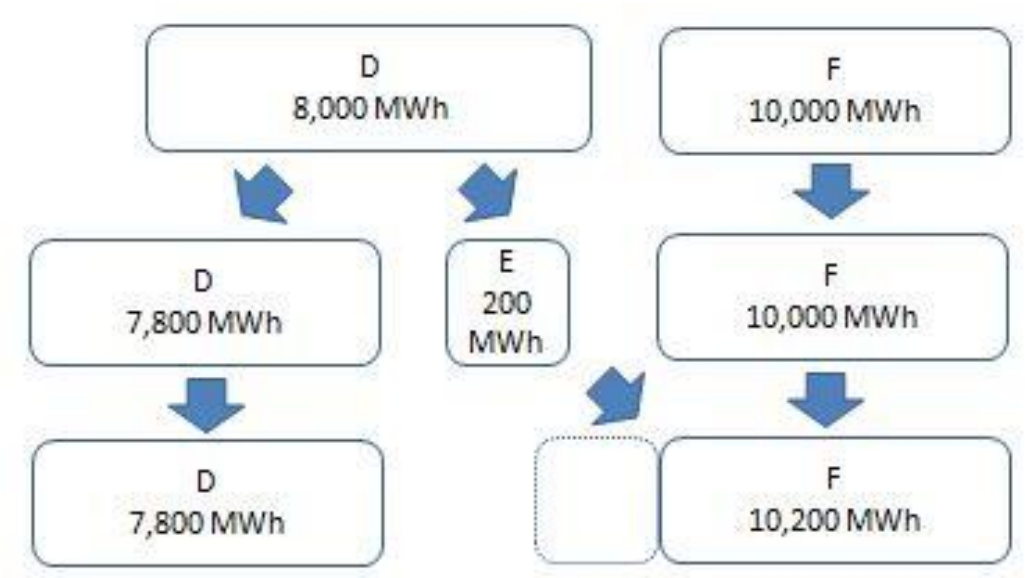
If the new department was created out of parts of existing departments then these existing departments will be required to report on their element of the new department's emissions, effectively an overlap with the new department's own reporting obligations. In addition the existing departments will be responsible for surrendering allowances for the new department's emissions until its first compliance year ('year 3'), and historic averages and recycling baselines will be updated for this year onwards. This ensures there is no loss of emissions coverage from the scheme. It will be down to the discretion of the existing departments to determine how this division of emissions will be undertaken while responsibility remains with the parent departments. Government will provide options in Guidance of how this could best be achieved.

Note that, where a new department is created responsibility for the supplies, which may at that time rest with another organisation or department, may be deemed the responsibility of the new department, irrespective of the supply contract which may remain unchanged.



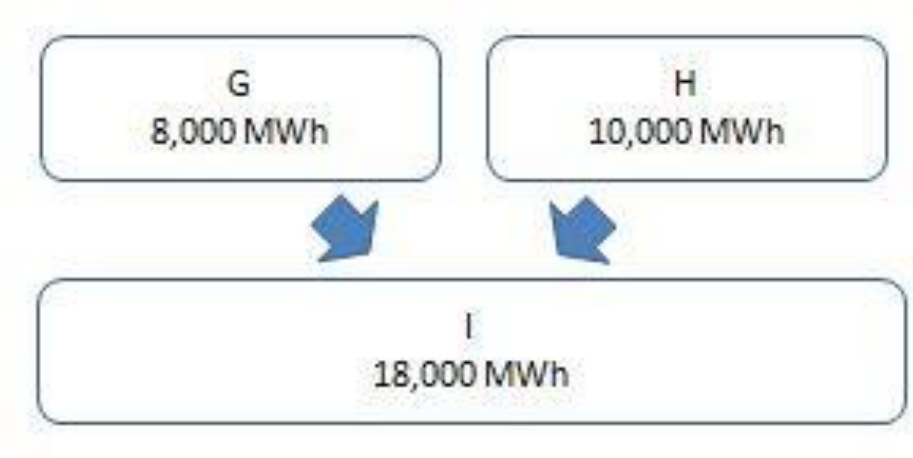
2. Movement of part of a department to another department

The Government wants to recognise the changes that occur frequently in Government involving the movement of parts of departments to other departments. In this situation the original parent department retains compliance responsibility for the part that is moving for the duration of the compliance year in which the change occurs. For all MoG changes of this kind, the new parent department will take over compliance responsibility for the part that has moved in the compliance year after the change occurs and historic averages and recycling baselines will be updated for this compliance year onwards.



3. Merger of two or more departments

Where a MoG change or a Relevant Decision aggregating two small departments results in the merger of two or more Government departments, the newly formed department will take over compliance responsibility for the CRC emissions backdated to the beginning of the compliance year of the change. Historic averages and recycling baselines will be updated for the next compliance year onwards.

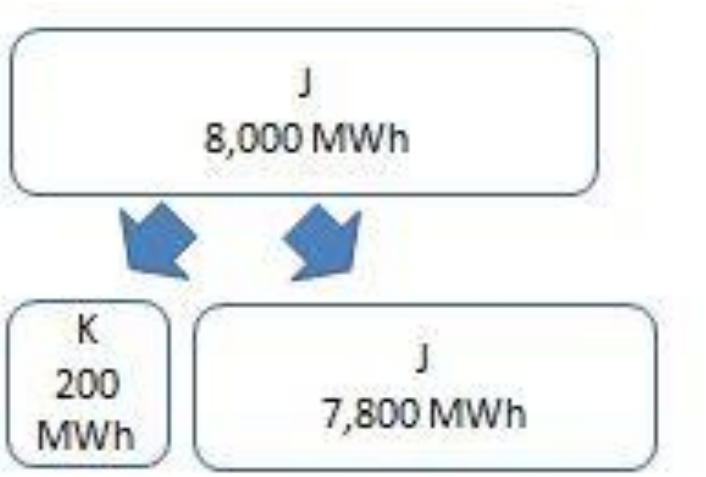


4. Disaggregation of part of a department for individual participation

When part of a Government department disaggregates under the Relevant Decision rule the Administrators will need to be informed at the start of a compliance year and the part that has disaggregated will be required to register as a Participant at this time.

This new Participant will be required to carry out a Footprint and an Annual Report during their first financial year after disaggregation occurs and an Annual Report in the second financial year before starting their first compliance year in their third year as a Participant when they must start to purchase allowances.

The parent department will remain responsible for the new participant's emissions until their first full compliance year ('year 3'). Recycling baselines and historic averages will need to be updated. Government will provide further guidance on this topic.


J
8,000 MWh
K
200
MWh
J
7,800 MWh

Annex C – Fuels emissions factors table

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
Basic Oxygen Steel (BOS) gas	kWh	0.996
Blast furnace gas	kWh	0.996
Burning Oil/Kerosene/Paraffin	litres	2.532
Cement industry coal	tonnes	2373
Coke Oven Gas	kWh	0.146
Commercial/Public Sector Coal	tonnes	2577
Coking Coal	tonnes	2932
Colliery Methane	kWh	0.184
Diesel	litres	2.639
Electricity	kWh	0.541
Fuel Oil	tonnes	3216
Gas Oil	litres	2.762
Industrial Coal	tonnes	2314
Lignite	tonnes	1203
Liquid Petroleum Gas (LPG)	litres	1.495
Peat	tonnes	1357
Naphtha	tonnes	3131
Natural Gas	kWh	0.1836
Other Petroleum Gas	kWh	0.2057
Petrol	litres	2.3035
Petroleum coke	tonnes	2981
Scrap tyres	tonnes	1669
Solid smokeless fuel	tonnes	2810
Sour gas	kWh	0.2397
Waste	tonnes	275.0
Waste oils	tonnes	3026
Waste solvents	tonnes	1613

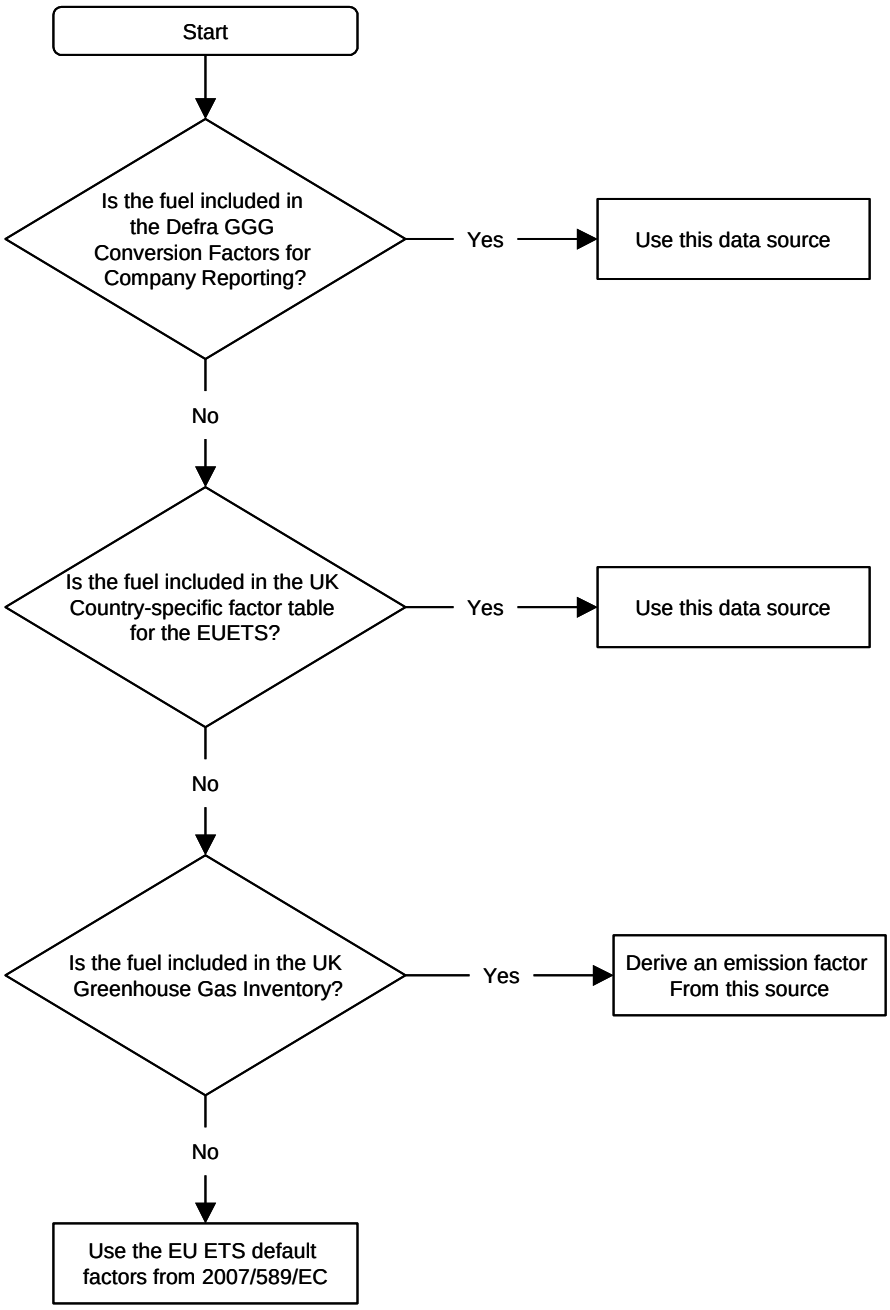


Figure 4. Emissions factors decision tree

Annex D – Example calculation of recycling payments

A revenue recycling payment will be calculated according to the following:

- How much money was collected in the sale/ auction and so is available for recycling
- The Participant's 2010/2011 emissions – the 'recycling baseline' (adjusted as appropriate for any Designated, Relevant Decision or Machinery of Government Changes)
- The bonus or penalty awarded to the Participant due to league table ranking

It is noted that in light of stakeholder feedback we have slightly modified how we ensure that the total sum recycled is equal to the monies received in a more transparent manner, but the basics of the calculation remain exactly as before. We are therefore no longer applying an extra factor *after* awarding the bonus/penalty (which has led to some confusion), but will take the size of the baseline emissions into account before determining the exact bonus/penalty. The bonus/penalties are still between +/- 10% in the first year etc as previously stated.

Worked examples of the first two years follow. In the first reporting year, the recycling payment depends on the elements in columns C to H. An organisation's position in the league table is determined entirely by the participants' score in the Early Action Metric (columns D & E). The total purchase of allowances in the Government sale provides the monies available to recycle back to participants (i.e. *total* in column G). The range of bonus/penalties in the first year is between +10 and -10%, according to the position in the league table. In order to ensure that the amount of money recycled back to participants is equal to the monies available, the exact percentages for each participant are calculated based on the distribution of 2010/11 emissions. (For example 9.89%=10%-(0.1*1.13%), where 0.1 is the maximum bonus, and 1.13% is the percentage of baseline emissions due to organisation c.) It is clear from this example, as stressed in the consultation document, that the revenue recycled back to participants does not depend on the amount that they paid in the Government sale, but to their baseline emissions. (See for example organisation h. This organisation will however have to purchase allowances on the secondary market –see column L. The *total* revenue in column G is however, relevant to all participants.)

In the second year of the scheme, a similar calculation is shown. In this case the maximum bonus is 20%, and depends primarily on the position in the league table (as well as the distribution of 201/11 emissions). In this year, this will depend on the early action score, as well as relative and absolute emissions reductions. As the previous year, the recycling payment is calculated as a fraction of the available fund from the Government sale in that year.

Table 1. Revenue recycling in 2011

Reporting period:	2010 - 2011
League table publication	October 2011
Revenue raised in government sale	£94,080
Maximum bonus/penalty for reporting period	+/- 10%

2010/11 reporting year									2011/12 reporting year		
A	B	C	D	E	F	G	H	I	J	K	L
Company	2010/2011 emissions	Baseline % of total	Early action score	Position in league table	Purchased allowances in govt sale 2011/12	Sale to cover predicted 2011/12 emissions	Bonus or penalty	Recycle payment 2011	2011/2012 emissions	% emissions reduction from preceding year	Allowances purchased / sold on secondary
c	100	1.13%	100	1	90	£1,080	9.89%	£1,168	95	5.00%	-10
f	2000	22.60%	90	2	2200	£26,400	7.51%	£22,859	2100	-5.00%	-100
a	1000	11.30%	75	3	850	£10,200	4.12%	£11,069	800	20.00%	-50
h	100	1.13%	65	4	0	£0	2.88%	£1,094	105	-5.00%	105
b	250	2.82%	54	5	270	£3,240	2.49%	£2,724	225	10.00%	-45
d	2700	30.51%	36	6	2000	£24,000	-0.85%	£28,459	2500	7.41%	500
g	200	2.26%	35	7	290	£3,480	-4.12%	£2,038	280	-40.00%	-10
e	300	3.39%	25	8	240	£2,880	-4.69%	£3,040	250	16.67%	10
j	1200	13.56%	18	9	900	£10,800	-6.38%	£11,942	1000	16.67%	100
i	1000	11.30%	10	10	1000	£12,000	-8.87%	£9,688	850	15.00%	-150
Totals	8850				7840	£94,080		£94,080			

Table 2 Revenue recycling in 2012

Reporting period:	2011 - 2012
League table publication	October 2012
Revenue raised in government sale	£91,692
Maximum bonus/penalty for reporting period	20%

A	B	C	D	E	F
Company	2010/2011 emissions	Baseline %age of total	Position in league table	Bonus or penalty	Recycle Payment 2012
h	100	1.13%	1	19.77%	£1,241
f	2000	22.60%	2	15.03%	£23,835
i	2700	11.30%	3	8.25%	£11,215
c	1000	1.13%	4	5.76%	£1,096
j	100	13.56%	5	2.82%	£12,784
a	250	11.30%	6	-2.15%	£10,138
g	200	2.26%	7	-4.86%	£1,971
d	300	30.51%	8	-11.41%	£24,781
e	1200	3.39%	9	-18.19%	£2,543
b	1000	2.82%	10	-19.44%	£2,087
totals	8850				£91,692

Glossary of terms used in the Government Response

Administrators	The Environment Agency (EA), Scottish Environmental Protection Agency (SEPA) and the Department of the 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 Participant in their jurisdiction (in the case of organisational groups this will be determined by the location of the Primary Member).
Allowance	A Participant will have to surrender 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 Participant's combined EU ETS, CCAs and CRC coverage level is above the 90% threshold.
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	An exemption for an entire Participant, where any CCA Group Member exemptions result in the remaining parts of the Participant being responsible for less that 1,000MWh of Half Hourly electricity.
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 or surrendering allowances. There are seven compliance years for each of the capped phases. The Introductory Phase lasts for three compliance years. The Qualification year is not a compliance year.
Consolidated Fund	The Government's current account, operated by the Treasury, through which pass most government payments and receipts.
Core Consumption	Core consumption is defined as the energy supplies 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 include in CRC if they are not covered by a CCA or the EU ETS. 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, or meters with the same functionality. • 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
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 Significant Group Undertakings. 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 SGU 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.
Direct supply	In CRC, a direct supply of energy exists where an organisation has an agreement with an organisation for the supply of energy. This can be a supply of electricity, gas or any other type of fuel. On the basis of the agreement, the Participant receives the supply and pays for the quantity received. In the case of gas and electricity, the supply needs to be measured by a fiscal meter.
Early Action metric	One of the three metrics by which CRC performance is assessed during the Introductory Phase. In order to achieve a maximum score in the Early Action metric a Participant must have installed AMR on all its electricity and gas supplies where this is viable, and have all their CRC emissions accredited by the Carbon Trust Standard, or an equivalent scheme. The Early Action metric is the only metric by which a Participant is assessed in the first year of the scheme. The weighting is reduced to 40% in the second year and 20% in the third year.

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 MW thermal), 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.
Fiscal Meter	A fiscal meter is one from which data is used to billing purposes.
Evidence Pack	Participants in CRC must keep a record of their organisation's energy supplies and other documents supporting the information given to the Administrators to prove: • Once per phase, their total energy supplies and the sources to be included in CRC, which must amount to at least 90% of that consumption • Each compliance year, their annual energy use for at least their CRC sources.
Footprint	Your footprint in CRC consists of all your emissions from energy supplies after Participants have subtracted those from excluded activities and CCA exempt parts of your organisation.
Footprint Year	The footprint year is the first year of each phase during which Participants must monitor energy supplies across their organisation and establish the sources of energy 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 supplies and the sources to be included in the scheme for that phase. It must be submitted via the Registry 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 0.541/kWh.
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.
Indirect Supply	In CRC, an indirect supply of energy exists where the operator of a generation plant supplies electricity exclusively to one CRC Participant. The Participant will take responsibility for the input fuel to the generation process, rather that the electricity produced, as an indirect supply. The operator will not be responsible for the fuel.
Information Declarer	An organisation which has at least one half hourly meter settled on the half hourly market but whose total HHM electricity does not exceed 6,000MWh during the Qualification period. This organisation must make an Information Disclosure.
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 Administrators via the online registry. These organisations are known as Information Declarers.
Introductory Phase	The Introductory Phase is the first phase of CRC. It begins in April 2010 and lasts for three years.
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.
Mandated Participant	An organisation to whom the qualification criteria do not apply, or apply differently, and which will be required to participate in CRC. There are three types of mandated Participant: all UK Government Departments; and local Government organisation mandated by the Secretary of State; and colleges that participate separately from their university after qualifying as a group.
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.
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.

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.
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 Administrators.
Principal Subsidiary	Principal Subsidiary is now known as a Significant Group Undertaking.
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 defined as a dynamic supply where (i) a set of equipment fixed to land that performs a common function (for example, street lighting), (ii) one element of the set of equipment is metered (for example a lamp post) and (iii) the existing meter point is used as a benchmark to determine the overall supply to the entire set of equipment in a given period.
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.
Recycling Baseline	The annual emissions total that is used to calculate the proportion of the revenue recycling due to a Participant.
Registry	CRC will be administered via a specially designed electronic system available on-line. Participants will register, report, buy and sell allowances and communicate with the Administrators 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 supplies other than the CRC core sources.
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 Administrators throughout the year. The price will be at least £12 and 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.
Self-supply	A supply that a licensed or unlicensed organisation makes to itself which is used for purposes other than those necessary to operate a license.
Significant Group Undertaking	Any individual subsidiary or grouping of subsidiaries within an organisation which would meet the qualification criteria for participation in CRC in its own right were it not part of a larger organisation. Formerly known as a Principal Subsidiary.
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.
Tick Box Questions	Participants are asked to voluntarily supply additional information in the form of four simple tick box questions around their public disclosure of information and employee engagement. 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

Voluntary Half Hourly Meter	Voluntary Half Hourly 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.

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