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DEPARTMENT OF ENERGY & CLIMATE CHANGE

Consultation on simplifying the CRC Energy Efficiency Scheme

March 2012

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

If you would like alternative formats of this consultation document please contact us at the address below:

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This document is also available on the DECC website at

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

Published by the Department of Energy and Climate Change – on behalf of the national administrations for England, Scotland, Wales and Northern Ireland.

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Executive Summary

The CRC Energy Efficiency Scheme (CRC) is a mandatory UK-wide trading scheme that was brought into law via the CRC Energy Efficiency Scheme Order 2010 (SI 2010/768) (the 'CRC Order'). The scheme is designed to incentivise large public and private sector organisations to take up cost-effective energy efficiency opportunities through the application of a range of drivers and thereby drive down the carbon emissions throughout the UK.

This consultation is being undertaken as a result of stakeholder feedback and Government's stated intention to review the operation and design of the scheme with a view to simplifying it and substantially reducing the associated administration burdens. The CRC Energy Efficiency Scheme (Amendment) Order 2011 (SI 2011/234) was made on 1st April 2011 which primarily extended the introductory phase and postponed the start of phase two, in order to give us time to engage extensively with stakeholders and make amendments to the scheme as part of the broader simplification review. For this reason, the simplifications proposed in this consultation will generally take effect from the beginning of phase two of the scheme.

Following a broader simplification review and engagement with stakeholders, this consultation document includes proposals which aim to streamline and simplify the scheme to create a new leaner, simplified and refocused CRC. The simplified CRC will deliver its energy efficiency and carbon reduction objectives whilst making compliance easier and less burdensome for participants. In summary these proposals will:

- provide greater business certainty by introducing two fixed price sales of allowances a year (one forecast and one retrospective), rather than auctions of allowances in a capped system;
- allow for greater flexibility for organisations to participate in 'natural business units';
- reduce the reporting burden in particular by reducing the number of the fuels reported from 29 to 4; using only electricity measured by settled half hourly meters (HHMs) for qualification purposes; ending the requirement for footprint reports; and other practical measures such as reduced requirements on maintaining records;
- reduce scheme complexity by removing the residual percentage rule ('90% rule') and CCA exemption rules, but aiming to achieve broadly the same outcomes;
- reducing overlap with other schemes so that organisations covered entirely by CCAs do not need to register; no longer requiring EU ETS installations to purchase allowances for electricity supplies.

Having considered stakeholder views and published a response, Government will make and lay an Order before Parliament, the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly via the affirmative resolution process – with the Order coming into force on 1st April 2013[1].

[1] In Northern Ireland changes to the scheme will require approval by the Northern Ireland Executive. The Minister of the Environment has written to Executive colleagues and is awaiting a response.

Consultation Details

Who should read this paper

This consultation may be of interest to businesses, public sector organisations, industry and trade associations, non-governmental organisations (NGO), charities, individuals and other interested parties.

It is likely to be of special interest to those organisations that have qualified for phase one of the CRC.

How to respond

Comments on the consultation document, draft Amendment Order and Impact Assessment (IA) are welcome. All responses will be considered before final decisions are taken.

Please note that responses must be received by **1700 Monday 18th June 2012**.

Wherever possible, we would encourage you to respond to our consultation online which can be found on our main consultation page http://www.decc.gov.uk/en/content/cms/consultations/crc_simp_cons/crc_simp_cons.aspx. If you are unable to use this medium, you can submit your comments by email and clearly state which consultation questions they are addressing – this will assist us in processing responses as efficiently as possible. Responses should be submitted to:

CRC@decc.gsi.gov.uk

Response forms can also be submitted by post to:

CRC Team, Industrial Energy Efficiency, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

Please include the following information in your response:

- Name
- Organisation name

- Email
- Address
- Type of organisation i.e. NGO, individual, business type, public or private sector
- Size of organisation (number of employees)
- CRC Registration number

Respondents in Scotland, Wales and Northern Ireland are asked to copy their submission to the appropriate Devolved Administration:

Scotland
By email: crc@scotland.gsi.gov.uk
By Post: Climate Change Division, Scottish Government, 1G Dockside, Victoria Quay, Edinburgh EH6 6QQ

Wales
By email: climate-change@Wales.gsi.gov.uk
By Post: Climate Change Policy Branch, Welsh Government, Cathays Park, Cardiff CF10 3NQ

Northern Ireland
By email: climate.change@doeni.gsi.gov.uk
By Post: Climate Change Unit, Environmental Policy Division, 6th Floor, Goodwood
House, 44-58 May Street, Belfast, BT1 4NN

Confidentiality statement

In line with Government's policy of openness, at the end of the consultation copies of the responses we receive may be made publicly available on request. Requests of this kind should be made to:

CRC Team, Industrial Energy Efficiency, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

If you do not want your response – including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that will not count as a confidentiality request.

Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential.

We will summarise all responses and place this summary on our website at http://www.decc.gov.uk/en/content/cms/consultations/crc_simp_cons/crc_simp_cons.aspx.This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

Introduction

1. The CRC Energy Efficiency Scheme (CRC) is a mandatory UK-wide trading scheme introduced in April 2010 which targets emissions from large public and private sector organisations. It is designed to drive emissions reductions in the target sectors by incentivising the uptake of cost-effective energy efficiency opportunities through the application of financial and reputational drivers. Further information on the development of the scheme is available at: http://www.decc.gov.uk/en/content/cms/what_we_do/lc_uk/crc/policy/policy.aspx

2. Since the scheme began in April 2010, a number of aspects of the policy have been criticised by stakeholders. In particular, stakeholders have argued;
   - The rules of the scheme are too complex, difficult to understand and costly for participants to administer;
   - Aspects of the scheme overlap with other climate change/energy efficiency policies (e.g. EU ETS, CCAs and greenhouse gas reporting);
   - The scheme forces organisations to participate in ways which do not accommodate their natural business/energy management structures and processes.

3. Consequently, Government committed to simplify the scheme. In the Annual Energy Statement in 2010 Government committed *"to keep the CRC under review and look at the future of the Climate Change Agreements in order to ensure that we deliver significant improvements in energy efficiency with minimal complexity and overlap"*. Government did this because it wanted to ensure that the policies were fit for purpose, and that any regulations we retained were less burdensome for business, and more practicable.

4. Furthermore the 2010 UK Government Spending Review decision not to proceed with revenue recycling has been criticised by stakeholders. This difficult decision was taken to help tackle the deficit against a background of unprecedented pressure on the public finances. The resulting revenue streams were factored into HM Treasury's spending projections[2]. At the Spending Review it was also announced that the first allowance sale for 2011/12 emissions would be a retrospective sale in 2012, giving participants more time to get to grips with the measuring and monitoring requirements of the scheme.

5. In November 2010, following up on the Annual Energy Statement, Government published an initial simplification proposal to amend the legislation underpinning

[2] http://www.hm-treasury.gov.uk/spend_index.htm

the scheme. The proposal focused on extending the introductory phase, which provides participants with an additional year's experience managing compliance and performance within the introductory phase, and provided a window to conduct a thorough and comprehensive simplification review. Other amendments included clarifying the participation of Northern Ireland Departments, updating a number of references in the original CRC Order, and removing any 'information disclosure' requirements on organisations for future phases of the scheme (thereby removing all future CRC obligations on at least 12,000 organisations). These proposals came into force in April 2011.

6. Since the Annual Energy Statement and the consultation last November, Government has continued to engage extensively with CRC participants and stakeholders on changes and simplifications to the scheme from the second phase onwards.

7. In January 2011 Government published a set of discussion papers on a number of specific areas of possible simplification and invited views from stakeholders (supply rules, organisational rules, qualification criteria, reducing the overlap between schemes and allowance sales). Subsequent to the feedback from stakeholders on these papers, Government published, in June 2011 its vision for the way ahead for a simplified CRC scheme. This vision outlined a simplified organisation-based CRC from phase two onwards (April 2013) which will retain the elements of reporting on energy use against a number of criteria; purchasing allowances to cover emissions; the trading of allowances; and the publishing of participants results.

8. Budget 2012 reaffirmed the Government's commitment to deliver significant savings in the administrative burdens imposed by the CRC. Budget 2012 also announced that should very significant administrative savings not be deliverable, the Government will bring forward proposals in the autumn 2012 to replace the CRC revenues with an alternative environmental tax, and will engage with business before then to identify potential options. This document focuses on CRC simplification only.

9. A simplified CRC could provide an effective way to encourage energy efficiency without imposing excessive burdens. The tailored combination of reputational, financial and standardised energy measurement and monitoring drivers remain the most effective way to tackle the wide range of barriers to the uptake of energy efficiency which exist in sectors covered by the CRC. The objective of CRC simplification is to:
    a. Optimise the projected energy and carbon savings delivered by the CRC scheme;

b. Dramatically reduce the complexity, so the energy efficiency and carbon savings are delivered at the minimum administrative cost.

10. In order to inform our simplification proposals, Government commissioned an administrative burden survey. The purpose of this survey was to allow us to capture and quantify the administrative time and costs which have been incurred by CRC participants. The full report of the administrative burden survey can be found at http://www.decc.gov.uk/en/content/cms/consultations/crc_simp_cons/crc_simp_cons.aspx

11. This consultation document builds on the vision set out in June 2011 and sets out specific proposals to simplify the CRC. These proposals take into account feedback from stakeholders on the June publication, feedback from the administrative burden survey and analysis of participant data from reports collected in July 2011.

12. The proposals in this consultation document should be read in conjunction with the draft Amendment Order and Impact Assessment (IA).

13. The Government's intention is that the new simplified scheme, if taken forward, should be in place from phase two onwards. Government intends to make and lay an Order before Parliament, the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly via the affirmative resolution process – with the Order coming into force on 1st April 2013.

14. For convenience, where this consultation refers to 'Government' it should be read as meaning, unless otherwise indicated, the Coalition Government, Scottish Government, Welsh Government and the Northern Ireland Executive.

Proposed amendments

1.1 Qualification

15. **Proposal 1: Qualification criteria.** Organisations must currently assess their status against two criteria to determine whether they qualify for CRC participation
- i) presence of at least one settled half hourly electricity meter; and
- ii) a total qualifying electricity supply of at least 6,000MWh in the qualification year. Organisations meeting both criteria are required to participate in the CRC.

16. The first criterion is restricted to **settled**[3] half hourly electricity meters (as defined by paragraph 2, Schedule 2, of the CRC Energy Efficiency Scheme Order 2010) and is a subset of the second criterion, which is focused on all half hourly metered electricity supplies, i.e. settled half hourly meters, non-settled half hourly meters or a dynamic supply (as described in paragraphs 2, 3 and 5 of Schedule 2).

17. This two-stage approach was designed to provide a balance between easily verifiable information (ownership details of settled HHMs) and setting an appropriate qualification threshold for the target sector based on suitably accurate data. However this has introduced a level of complexity that has resulted in confusion amongst some participants.

18. In addition it has been brought to Government's attention that some organisations are delaying the upgrade of their profile class 05-08 meters to advanced/Smart Meters on the grounds that supplies through such meters would contribute to their CRC qualifying supplies. This is an unintended consequence which Government intends to readdress.

19. Government is also mindful of the GB-wide proposal for advanced or Smart Meters to be settled on a half hourly basis from around 2014 onwards[4] . Whilst this would not have any implications for the scope of phase 2 qualification (2012/13 financial year), the combination of the advanced meter rollout and

[3] There are currently c. 111k settled half hourly electricity meters (HHMs) in the UK. Such meters are defined in the CRC as performing two functions; measuring electricity supplied to a customer on a half hourly basis for billing purposes and measuring electricity for the purposes of balancing the loads on the grid in respect of the wholesale electricity market. These meters are mandatory in Great Britain where the average peak electricity demand over the three months of highest consumption within a year exceeds 100kW over the previous 12 months. However these meters have also been installed on a voluntary basis where the owners wish to collect data on its electricity consumption for energy management purposes before the existence of Automatic Meter Reading (AMR) meters. In Northern Ireland the meters have been mandatory since November 2007 where a site's Maximum Import Capacity exceeds 70kVA. Before this date no meters in NI were fitted on a mandatory basis.

[4] *http://www.elexon.co.uk/Pages/P272.aspx*

subsequent move to half hourly settlement could mean an increase in qualifying supplies.

20. Following stakeholder engagement, Government proposes to base CRC qualification on supplies through settled half hourly meters only from phase 2 onwards. This approach would address the complexity associated with the current arrangements, as well as removing the short-term disincentive to install/activate advanced meters. It would also facilitate the administrator's checking of registration data.

Consultation Question	
1.	**Do you agree with the proposal to restrict qualification to supplies through settled half hourly meters only? If not please explain your reasoning.**

21. **Proposal 2: Qualification threshold.** In the informal discussion document Government suggested that the move to settled half-hourly meter-based qualification may require a reduction in the threshold in order to maintain emissions coverage. However subsequent modelling has suggested that retention of the current 6,000MWh threshold, alongside other simplifications, would broadly maintain emissions coverage at the current levels, although the number of qualifying organisations will be reduced. Government proposes this is a desirable situation, facilitating the removal of administrative requirements on a sizeable number of participants whilst maintaining the emissions coverage and energy efficiency benefits of the scheme. Details of the modelling are available in the Impact Assessment published alongside this consultation document.

22. **Proposal 3: Automatic population** – Government acknowledges stakeholder feedback about the scope for streamlining the CRC's registration process. It therefore intends to introduce an automatic population mechanism for those participants whose details remain unchanged from those provided in the previous phase's registration. New entrants, participants with amended corporate structures, or those wishing to disaggregate undertakings (see proposal 21) will be required to undertake the full version of registration. However, in both scenarios participants will be required to satisfy relevant audit and identity checks by the administrator.

Consultation Question	
2.	**Do you agree with the proposal for automatic population? If not please explain your reasoning.**

1.2 Supply Rules

23. The definition of an energy supply in CRC is critical to the operation and success of the scheme, given the definition assigns CRC obligations and responsibility to the appropriate party. It is Government's policy intent that CRC responsibility for energy supplies resides with the party most able to improve energy efficiency.

24. The current supply rules, detailed in Schedule 1 of the Order, consist of a number of criteria, all of which have to be met in order to ascertain who is supplied with the energy and responsible for accounting for that supply under CRC. The Order provides that:

A public body or undertaking ("A") is supplied with electricity by a person ("B") where—

(a) A agrees with B that B will supply electricity to A and that A will pay B for that supply;
(b) A receives a supply further to that agreement; and
(c) that supply is measured by a metering device or is a dynamic supply.

A metering device is a device where the electricity supplied is charged for as measured by the device.

25. Similar definitions exist for the supply of gas and other fuels as defined by the Order, although the presence of a metering device is not required in respect of the latter.

26. Where A has received a supply from B but passes that supply onto a third party and does not consume the supply itself, that unconsumed supply is treated as a supply to a third party and the third party is responsible for accounting for that supply under CRC. This rule is particularly relevant for third party energy procurement services because it places responsibility for supply with the user rather than the procuring party (A). This exemption for unconsumed supply does

not apply in respect of landlord/tenant relationships given the influence of landlords over the uptake of energy efficiency measures in their buildings.

27. In addition, organisations may be considered to self-supply electricity and gas in certain circumstances. Self-supply is where an organisation generates electricity/produces gas and uses it within its structure to run offices, data centres etc. Such supply is reportable in the same manner as supply from a third party. Electricity used to generate, transmit or distribute electricity or gas used to transport, ship or supply gas is not considered as self-supply.

28. Stakeholder feedback indicates that the application of the CRC's supply rules, especially between undertakings in the same group and with complex outsourcing/PFI arrangements, is contributing to the scheme's perceived complexity amongst participants. This complexity may also contribute to a reduced emissions coverage, as participants have struggled to accurately identify the 'supplies' that they are genuinely responsible for under the CRC. Similarly, there is an unintended consequence of the original drafting whereby certain supply arrangements might fail to meet the definition and fall out of the scheme.

29. **Proposal 4: supply at the direction of another party** – recent engagement has identified stakeholder confusion in the application of the CRC's supply rules for complex purchasing arrangements, especially where involving the direction of a third party. Government therefore proposes to amend the supply definition in order to provide additional clarity in third party scenarios. The criteria would be amended so that party 'A' would be responsible for supplies it receives, or supplies made at its direction. Such an approach would tighten the supply rules and reduce complexity. 'A' may still be able to claim unconsumed supply, subject to its circumstances.

Consultation Question	
3.	**Do you agree with the proposal to clarify the treatment of supplies at the direction of another party? If not, please explain your reasoning.**

30. **Proposal 5: Payment requirement** – The current criteria require the transfer of payment in order to establish a supply relationship. Government understands this position may lead to unintended emissions loss under some contractual scenarios. It is therefore proposed to remove the payment criterion from the supply definition in order to capture complex supply arrangements. Government proposes the removal of this criterion will not fundamentally increase the scope of

the scheme, as the inclusion of those supply relationships failing the supply criteria (e.g. waste as an input fuel into Energy from Waste plants) is mitigated by the revision of fuels covered by the scheme (see proposal 12).

Consultation Question	
4.	**Do you agree with the proposal to remove the payment criterion from the supply criteria? If not, please explain your reasoning.**

31. **Proposal 6: Unmetered supplies** – the current supply criteria require the presence of a meter upon which payment is based to establish a supply relationship or for the supply to be a dynamic pseudo half hourly unmetered supply. This has resulted in a discrepancy between the treatment of unmetered supplies used for streetlighting, with supplies provided on a dynamic[5] pseudo half hourly basis being within scope and currently contributing to CRC qualification. Unmetered supplies provided on a passive pseudo half hourly basis or pseudo non half hourly basis are currently excluded in their entirety from the scheme. This has resulted in the unintended consequence of a disincentive to upgrade unmetered supplies to a dynamic basis. Upgrading to a dynamic basis is desirable on account of the additional reporting functionality that dynamic supplies provide – similar to Automated Meter Readings. It has also acted as an incentive for many local authorities to downgrade their dynamic supplies to passive status in order to reduce their CRC exposure.

32. The proposal extends the categories of unmetered supplies within scope of the CRC to include passive pseudo half hourly and pseudo non half hourly unmetered supplies. Organisations would be required to annually report and surrender allowances in respect of such supplies, although they would not contribute towards CRC qualification. Dynamic pseudo half hourly unmetered supplies would remain within scope of the scheme but would no longer contribute towards qualification (see proposal 1 – qualification).

[5] Dynamic pseudo Half Hourly meters allocate the unmetered consumption across the half hourly periods by reference to the operation of a number of actual photocells (PECUs) as recorded by one or more PECU Arrays, or by making use of actual switching times reported by a Central Management System (CMS). In either case the pseudo meter defaults to a passive mode using calculated times of switch operation in the event of the actual switching times not being available. Passive pseudo Half Hourly meters allocate the unmetered consumption across the half hourly periods by reference to the calculated sunrise/sunset times. They cannot use data as recorded by a PECU Array or CMS.

Pseudo Non Half Hourly meters involve the calculation of an Estimated Annual Consumption (EAC) by the Distribution Business. The EAC is then allocated across the half hourly periods using Settlement profiles. Instead of using a PECU Array, CMS or calculated sunrise/sunset times, an annual hours figure is used. This figure is published by ELEXON for each Distribution area.

33. It is not the policy intent to extend the supply definition to include private wire networks. Government therefore proposes to define unmetered supplies with reference to supplies connected to a licensed Distribution Network Operator's network which are not measured through an appropriate meter.

34. The expansion of the unmetered supplies covered by the scheme would be fairer and remove the unintended disincentive for upgrading passive supplies to dynamic arrangements. It would also bring additional energy efficiency savings within scope of the scheme.

Consultation Question	
5.	**Do you agree with the proposal, and associated definitions, to expand the scope of unmetered supplies captured by the CRC? If not, please explain your reasoning.**

35. **Proposal 7: Profile classes** – Government has considered, in the past, removing the requirement for a meter to establish a CRC supply relationship. Stakeholder feedback has indicated this approach would cause difficulties for participants to accurately compile annual report data, as well as establish supply responsibility. Government therefore proposes to retain the meter requirement but restrict those meter profiles within scope to facilitate the exclusion of domestic supplies. This will be done through excluding supplies via electricity meters of profile classes 01 ('domestic unrestricted') and 02 ('domestic Economy 7') which are predominantly used by domestic customers. Electricity supplied via meters of profile class 03 through to 08 and 00 will remain in scope of the scheme.

36. It is worth noting that profile classes 01 to 04 are broadly comparable between Great Britain and Northern Ireland, enabling the single UK-wide exclusion of type 01 and 02 meters.

37. In addition Government proposes introducing a similar meter-based exclusion for domestic gas supplies. Gas meters are not profiled in a similar way to electricity meters, although gas supply points with an annual quantity of 73,200 kWh or less are widely recognised as domestic, small supply points. Government therefore proposes to exclude non daily metered supply points receiving annual gas supplies of 73,200 kWh or less. Participants will have to assess the status of such supply points on an annual basis to determine whether they are eligible for the exclusion. Excluded supply points may be brought into scope mid-phase if the

annual supply through the meter exceeds 73,200 kWh of gas - effectively re-designating the meters as 'large gas point meters' under Schedule 2 of the Order.

38. Government proposes that this exclusion will significantly simplify how organisations identify and exclude supplies used for domestic accommodation, without a significant emissions coverage implication – as most of the emissions would have already been removed under the domestic accommodation exclusion.

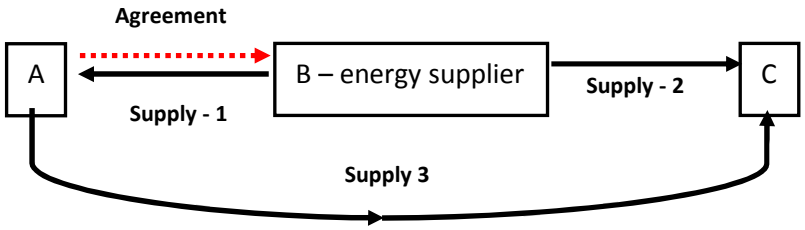
Consultation Question	
6.	**Do you agree with the proposal to exclude domestic electricity and gas supplies from the scope of the scheme on the basis of their supplying meters? If not, please explain your reasoning**

39. **Proposal 8: Unconsumed supply** – there is potential under the current supply rules for emissions loss from the scheme where a participant claims unconsumed supply, and where the downstream organisation does not qualify for the scheme or the downstream relationship does not meet the supply criteria.

40. Government therefore proposes limiting the circumstances in which unconsumed supply can be claimed to those where the immediate downstream relationship meets all aspects of the supply definition – including the metering provision. The downstream organisation does not need to have actually qualified for CRC participation in order for unconsumed supply to have been claimed; only for their relationship to meet the supply criteria.

41. Where an organisation claims unconsumed supply in respect of 100% of a supply, it is likely the entire supply would go via a single fiscal meter, which would fulfil this aspect of the supply criteria, irrespective of whose control the meter is under. However where an organisation claims unconsumed supply in respect of a proportion of the supply, it is likely this divergence would take place downstream of the fiscal meter – and under such circumstances unconsumed supply could only be claimed where the divergent supplies were appropriately sub-metered.

Diagram 1: Unconsumed supply scenarios and explanation:



For the purposes of this explanation 'A' is not considered the landlord of 'C'. 'A' would not be able to claim unconsumed supply where it is the landlord of 'C'. All references to supplies in the following text relate to the above diagram.

- **Supply 1** – 'A' agrees with 'B' to supply 'A'. 'B' supplies 'A' and 'A' is responsible for the supply under CRC.

- **Supply 2** – 'A' agrees with 'B' to supply 'C'. 'B' supplies 'C', with the default position that 'A' is responsible for supply 2 under CRC unless it claims unconsumed supply in respect of this supply. 'A' can only claim unconsumed supply where the relationship between 'A' and 'C' *fulfils the supply criteria*, including being appropriately metered, in which case 'C' is responsible for supply 2. C does not have to be a CRC participant for 'A' to claim unconsumed supply.

- **Supply 3** – 'A' agrees with 'B' to supply 'A', which 'A' then subsequently passes some or all of to 'C'. 'A' is responsible for supplies 1 and 3 under CRC unless it claims unconsumed supply in respect of supply 3 passed to 'C'. 'A' can only claim unconsumed supply where the relationship between 'A' and 'C' *fulfils the supply criteria* including being appropriately metered, in which case 'C' is responsible for supply 3. 'C' does not have to be a CRC participant for 'A' to claim unconsumed supply.

Consultation Question	
7.	**Do you agree with the proposal to restrict the circumstances where unconsumed supply can be claimed? If not, please explain your reasoning.**

42. **Proposal 9: Landlord definition** – under the current definition where one party ('tenant' or licensee) occupies premises with the permission of another ('landlord') and receives an energy supply from their landlord, the supplies of

energy are treated as the CRC responsibility of the landlord. Landlords are not able to claim unconsumed supply in respect of energy supplies they provide to their tenants or licensees ('landlord/tenant rule'). Premises are defined as land, vehicle, vessel or movable plant. Stakeholder feedback has suggested there should be a distinction between providing land on which the tenant builds its own building, under a ground lease arrangement, and providing a building for the tenant to occupy. This is because there is a significant difference between these cases in the ability to influence energy consumption.

43. It is therefore proposed to enable parties which provide a tenancy of land to other parties to build their own buildings to claim unconsumed supply in respect of energy supplies to such properties constructed on the tenanted land i.e. a ground lease. This would have the effect of transferring CRC responsibility from the 'landlord' to the 'tenant' in such scenarios where:

- There is the presence of a long-term lease (40 years plus) and;
- The tenant agrees to construct, and where so required remove, any buildings and;
- The tenant agrees to be responsible for installation of any gas, electricity and water services.

44. As per proposal 8, the 'landlord' in this scenario would only be able to claim unconsumed supply where their relationship with the 'tenant' met the simplified supply criteria. Under this proposal there may be a small risk of emissions loss as CRC responsibility is passed to organisations which may not have qualified for CRC participation.

45. Government does not propose to fundamentally revisit the CRC's landlord-tenant approach. Government has welcomed recent stakeholder engagement on this issue but acknowledges that no clear consensus emerged between stakeholders as to the party which should be responsible under CRC. In the absence of such agreement it is proposed that the current approach, which places the CRC obligation on the party with responsibility for the energy contract (effectively the 'counterparty'), is most aligned with the party most able to **influence** energy consumption (normally the landlords) rather than the party responsible for **using** most of the energy (generally the tenants/licensees). This position reflects research by the Carbon Trust on the split incentives associated with landlord/tenant relationships[6]. This position is an appropriate balance given the scheme's focus on incentivising cost-effective energy efficiency measures.

[6] http://www.carbontrust.co.uk/publications/pages/publicationdetail.aspx?id=CTC766

46. Government does acknowledge, however, the current levels of uncertainty across the estates sector as to the appropriate legal treatment of CRC costs in landlord/tenant lease and license arrangements. As such Government would encourage trade and industry bodies to develop their own guidance and approach on this issue.

Consultation Question	
8.	**a) Do you agree with the proposal to disapply the landlord/tenant rule in respect of ground lease arrangements? If not, please explain your reasoning.** **b) Do you agree that 40 years is an appropriate lease duration for this proposal? If not please explain your reasoning.** **c) Government welcomes stakeholder representation on the potential impact of this proposal on the scheme's emissions coverage.**

47. **Proposal 10: Licensed activities** – under the current Order electricity or gas supplied within an undertaking or public body and used for the direct purposes of specific 'licensed activities' (electricity used for generation, transmission or distribution of electricity, gas used for the transport, supply or shipping of gas) is excluded from the scheme under paragraphs 6 and 7 of Schedule 1. This exclusion was originally provided to recognise the circumstances of electricity and gas suppliers. However stakeholder representations have identified an inequity between internally ('self') supplied electricity and gas, which is excluded where used for such purposes, and supplies from third parties which are within scope of the CRC, irrespective of whether subsequently used for such licensed activities. It is therefore proposed to align the licensed activity exclusion so that supplies from third parties are excluded from the scheme, where directly used for such 'licensed activities'.

48. In addition it is also proposed to extend the current exclusion to electricity used for the purposes of transporting, supplying or shipping of gas, and for gas used for the purposes of generating, transmission or distribution of electricity (i.e. cross licensed activities). Under the current drafting of the Order, electrically powered gas compressors will be within scope of the scheme; however under this proposal such uses will be excluded.

49. This will effectively mean that gas supplies will only be considered within scope of the CRC where used for non-electricity generating/non gas distribution purposes. In addition this will facilitate the removal of the Electricity Generating Credit (EGC) provisions, as referenced in paragraph 92.

Consultation Question	
9.	**a) Do you agree with the proposal to extend the self-supply exclusions to supply arrangements and for cross licensed activities? If not, please explain your reasoning.** **b) Government welcomes stakeholder representation on the potential impact of this proposal on their qualification status for the scheme and resultant emissions coverage impacts.**

50. **Proposal 11: Revision of emission factor for self-supplied electricity.** Currently all relevant electricity supplies are reported in the CRC at the grid average emission factor of 0.541kgCO_2/kWh – termed the 'electricity consumed figure' in Defra's Greenhouse Gas Reporting Guidelines. This figure is comprised of two elements – a generational element, which has a grid average emission factor of 0.500kgCO_2/kWh, and a transmission loss element, which has an average emission factor of 0.041kgCO_2/kWh. Government proposes to recognise the efficiency benefits of on-site electricity generation relative to a grid solution by removing the transmission loss aspect of the emissions factor for self-supplied electricity. Under this proposal, organisations which self-supply electricity, i.e. generate and supply within their undertaking/public body level, will be able to apply an emission factor of 0.500kgCO_2/kWh to such self-supplied electricity, irrespective of how the electricity is generated. All other supplied electricity from a third party will be subject to the electricity consumed emission factor of 0.541kgCO_2/kWh, irrespective of how the electricity is generated.

51. These emission factors will be updated annually as per proposal 13 in this consultation document, and are therefore included here for indicative purposes only. This will not introduce an additional administrative burden on participants, as the different emission factors will automatically be applied within the CRC Registry when participants report their supplied and self-supplied figures.

52. One potential issue with this approach would be that the emission factor of 0.500kgCO_2/kWh would not necessarily be consistent with other reporting

regimes. Government would be interested in understanding if this drawback outweighs the benefits of taking into account the benefits of self-supplied electricity. Also, a second potential issue is whether self-supplied electricity is a fair way of defining those people who should be entitled to the reduced emissions factor.

Consultation Question	
10.	**Do you agree with the proposal to revise the emission factor used for self-supplied electricity. If not, please explain your reasoning.**

53. **Proposal 12: Reduce the number of fuels** – currently CRC participants are required to report on 29 energy and fuel types, where their arrangements meet the CRC's supply definition. Stakeholder feedback has indicated a disproportionate administrative burden associated with reporting on lesser used fuels, even with the 90% applicable percentage approach. It is therefore proposed to reduce the number of fuels covered by the scheme to electricity, gas, gas oil (diesel) and kerosene – the latter two only when used for heating purposes. Government had considered focusing on electricity and gas only, given that c. 93% of CRC emissions result from core electricity and gas supplies. However stakeholder feedback indicated the need to include gas oil and kerosene in order to avoid unequal treatment for heating supplies in Northern Ireland and rural communities.

54. The risk of participants switching to fuels not covered by the CRC is relatively minimal given the additional conversion and infrastructure costs of switching and that the primary fuel switching risk (gas and electricity to gas oil) is mitigated through the inclusion of gas oil and kerosene in the scheme.

55. Gas – under this proposal relevant supplies of metered gas from the gas network will remain within scope of the scheme, although bottled/unmetered sources will be out of scope, as will gas directly used for electricity generation, as detailed in paragraph 47. As per the current Order, the natural gas conversion factor will apply to all such grid supplies, irrespective of any future biomethane component, as the carbon benefits of such biomethane generation will be recognised under the Renewable Heat Incentive (RHI) – where the benefit resides with the producer. This position continues to be aligned with the CRC's treatment of grid-supplied 'green' electricity.

56. Self-supplied gas – under the current Order supplies of 'gas' meeting the paragraph 7, Schedule 1 criteria are within scope of the scheme, irrespective of whether they are natural gas, colliery methane or any of the other gaseous fuels listed in table 4 of Schedule 1. This is on the basis they all meet the definition of 'gas' under section 48(1) of the Gas Act 1986, upon which the CRC's definition of an authorised gas supplier is based.

57. The retention of this generic definition of 'gas' for self-supply purposes will run contrary to our simplification announcement about moving to four fuels. It is therefore proposed to restrict the self-supply of gas provision to natural gas only. Organisations producing and using other forms of gas, such as biomethane, will not be required to report such use under the self-supply provisions.

58. Gas oil – relevant supplies of gas oil (i.e. 'red diesel') used for heating purposes, defined below, will be within scope of the scheme. Government proposes to define gas oil with reference to BS 2869:2010 Class D.

59. Kerosene – relevant supplies of heating oil and premium kerosene used for heating purposes, will be within scope of the scheme. Government proposes to define kerosene with reference to BS 2869:2010 Class C1 (premium kerosene) and C2 (heating oil).

60. Blended fuels – it is proposed that there is no change to the scheme's treatment of blended fuels, currently covered by paragraph 29, Schedule 1. A participant will be responsible for the gas oil or kerosene component in a blended fuel; the other component, if not gas oil or kerosene, would not be reportable.

Consultation Question	
11.	**a) Do you agree with the proposal to reduce the number of fuels covered by the scheme? If not, please explain your reasoning.** **b) Do you agree with the proposed method of defining gas oil and kerosene? If not, please explain your reasoning** **c) Do you agree with the proposed treatment of gas supplies? If not, please explain your reasoning.**

61. It is proposed to restrict the scope of gas oil and kerosene to where provided for heating purposes. This restriction is proposed to recognise the primary use of such fuels in Northern Ireland and rural communities, as well as ensuring fuel usage in off-road vehicles is out of scope of the scheme.

62. Supplies of gas oil and kerosene, plus gas as detailed in paragraph 48, used as an input fuel into a process whose primary purpose is the generation of heat, either via a boiler or hot water arrangement, will be in scope. However supplies of these fuels for electricity generating purposes, or where the generation of heat is a secondary output, will be outside of the scope of the scheme. It is acknowledged there will be a new administrative requirement for participants to distinguish between fuel used for heating purposes and fuel used for electricity generation, although it is proposed to allow some estimation leeway for how organisations determine this split.

63. The use of gas, gas oil or kerosene as an input fuel into a Combined Heat and Power (CHP) process will not be considered as being within scope of the CRC. This is because CHP is primarily considered as a power generating process, with heat generation as a secondary benefit. However the net CRC liability will be retained by maintaining the reporting requirement on the resultant electricity use and deleting the Electricity Generating Credit (EGC) provision for all generational activities – please see proposal 18.

Consultation Question	
12.	**a) Do you agree with the proposal to restrict the scope of gas oil and kerosene where used for heating purposes? If not please explain your reasoning.** **b) Do you agree with the proposed definition of heating purposes? If not please explain your reasoning** **c) Do you agree with the proposed treatment of CHP? If not please explain your reasoning.**

64. **Proposal 13: Aligning the emission factors** - under the current rules the emission factors for CRC are fixed for the duration of each phase. The rationale behind fixing the CRC emission factors for a phase was to incentivise participants to adopt energy management strategies to reduce emissions, and incentivise performance. Fixed emission factors would also be helpful in giving additional

certainty when setting an emission cap, and ensuring consistency within the CRC league table.

65. Informal stakeholder feedback has indicated that different emission factors for different policies adds to the complexity of the policy landscape. The removal of revenue recycling, and proposed cap removal and reduction in the number of fuels covered by the scheme will reduce the need for emission factors to be fixed for a phase. Government therefore proposes to adopt for CRC the emission factors used for greenhouse gas reporting purposes, which are updated annually, as opposed to fixing emissions factors for each phase. This will create greater alignment between the policies.

66. Taking into account proposal 12 on the reduction of fuels, emission factors will be published each year on the DECC website for the following fuels: rolling grid average electricity, natural gas, gas oil and kerosene. These emission factors will be based on those in Defra's Greenhouse Gas Reporting Guidelines which are updated annually and published on the Defra website. As indicated in proposal 11, emission factors for electricity will vary dependent on whether it is self supplied or supplied electricity from a third party.

67. Under the current Government guidelines on reporting of greenhouse gas emissions, companies report on emissions for an annual period that aligns with their financial year and use the relevant emission factors for that year. Consideration needs to be given to which published emission factors the CRC factors should align with.

68. If CRC used the emission factors that were published for greenhouse gas reporting in the year preceding the compliance year, it would provide more certainty for participants in buying allowances in the forecast sale at the start of the CRC compliance year. However, the majority of companies use the emission factors published during their reporting year for greenhouse gas reporting. It therefore may create greater alignment to use the emission factors published in each CRC compliance year. For example, the emission factors published in summer 2014 would be used as the basis for the data returns in the annual reports submitted in July 2015 and the allowances bought for emissions in 2014/15. The emission factors would not vary substantially between each year. Therefore in the interests of simplicity and alignment, Government proposes that we align the CRC emissions factors with those that are published in the summer of each compliance year.

Consultation Question	
13.	**a) Do you agree with the proposal to align the CRC emission factors and adopt those used for greenhouse gas reporting purposes which are updated annually? If not please explain your reasoning.** **b) Do you agree with our proposal that the CRC emission factors should be aligned with those that are published in each compliance year? If not please explain your reasoning.**

69. **Proposal 14: 90% applicable percentage** – participants are currently required to produce a footprint report in the first year of each phase, the purpose of which is to confirm the participant's compliance with the 90% applicable percentage rule (where participants have to ensure that at least 90% of their emissions are covered by the EU ETS, CCA and CRC schemes). The 90% applicable percentage was originally introduced to reduce the reporting burden on participants by enabling them to discount up to 10% of their smaller emission sources from the scheme. Additional complexity was introduced through the core/residual source distinction, where supplies meeting the CRC's 'core supplies' definition have to be included in participants' footprint and annual reports. Residual sources are only required to be reported where they have been included on the residual measurement list to make up any shortfall below the 90% figure.

70. It is proposed to require participants to report on 100% of their relevant electricity and gas supplies, as defined in the Order, and all their gas oil and kerosene supplies where used for heating purposes. Such a proposal would maintain emissions coverage levels in light of reducing the number of fuels covered by the scheme. It would also enable the removal of the requirement to submit a footprint report, as evidence of compliance with the 90% rule would no longer be required, and to maintain a residual measurement list. It will also remove the distinction between core and residual meters.

71. The move from 90% reporting of 29 fuels to 100% reporting of 4 fuels will significantly simplify the administrative requirements on participants.

72. However Government would like to further explore the potential benefits of introducing a de-minimis threshold before an organisation needs to report on its supplies of gas oil and kerosene. There may be benefits to including a de minimis for these fuels, so that organisations for whom these fuels make up a very small amount of their overall energy consumption would not need to report

or purchase allowances in respect of these fuels. We would be interested to know if you feel such thresholds would be worth introducing. If we were to introduce de minimis thresholds for gas oil or kerosene we would be interested in knowing at what level you feel these should be set?

73. It would also be possible to introduce a de minimis threshold for gas consumption, which could also bring benefits to organisations that use a very small amount of gas, and who therefore would not be required to report or purchase allowances for their gas consumption. We would be interested in knowing if you feel a gas threshold would be worth introducing, and if so, what level you feel it should be set at?

Consultation Question	
14.	**a) Do you agree with the proposal to remove the 90% rule and the associated compliance activities (footprint report, residual measurement list, core/residual distinction)? If not, please explain reasoning.** **b) Would you support the proposal to require reporting on 100% of gas oil and kerosene used for heating purposes? If not, and you would prefer a de minimis approach, please explain your reasoning. If you prefer a de minimis, at what level do you feel it should be set? Would you support a de minimis also being applied to gas consumption?**

74. **Proposal 15: Extension of annual energy statement obligation** - under the current Order there is an obligation on the licensed suppliers of electricity and gas to provide an annual energy statement where so requested in a timely manner by CRC participants (Article 63). This requirement is enabled through modification to the OfGem and NI Utility Regulator suppliers' licenses to ensure an appropriate enforcement regime for non-compliance licences.

75. Government proposes facilitating the move to 100% reporting by extending the existing obligation to provide an annual energy statement to the suppliers of gas oil and kerosene. Registered suppliers of such fuels already provide data of a very similar nature to HM Revenue and Customs under the Registered Dealers in Controlled Oils (RDCO) scheme, so such a requirement would not introduce a significant additional burden on the suppliers. Government acknowledges that such suppliers will not be able to determine the final use of their supplies (e.g.

diesel could be used for both heating and transport purposes) – but providing a total annual figure will facilitate the CRC participants' final assessment of the split between heating purposes and other uses.

Consultation Question	
15.	**Do you agree with the proposal to extend the annual energy statement obligation to registered suppliers of gas oil and kerosene? If not, please explain your reasoning**

76. **Proposal 16 - Energy suppliers' statements –** the current obligation on licensed energy suppliers to provide CRC participants with an annual statement was introduced in order to assist participants in determining their organisation's energy supply. It therefore reduces the administrative burden of gathering data on energy supplies. The first annual energy statements were sent out to participants following the first compliance year in 2010-11.

77. Energy suppliers fulfilled their obligation in providing these statements, however feedback has been received from a significant number of CRC participants, that the statements have not provided the information they require to submit their Annual Reports. The issue revolves around the difference between estimated supply as defined in the Standard Supply conditions and the definition of estimated supply in CRC. This can, in some cases, result in participants being subject to a 10% uplift in their supplies if they have not had two accurate meter readings, more than six months apart, within a compliance year.

78. Government is working with energy suppliers to improve the annual energy statements for the remainder of Phase 1. OfGem are in the process of updating the guidance on providing an annual energy statement, associated with the licence conditions. This will provide clearer guidelines on the level of information required, and encourage suppliers to provide a document which is more user friendly alongside a locked down version. Secondly, the CRC Regulators will update their guidance to participants to provide further detail on using their own data from meter reads and understanding their annual energy statement following the updated guidance from OfGem. In Northern Ireland, DOE will take similar work forward with their Utility Regulator.

79. For Phase 2, we propose to address some of the difficulties that have been created by the requirement to align the billing data with the CRC compliance year for the annual energy statement. This has meant in some cases that energy suppliers have been required to pro rata billing data at the start and end of the

year, creating estimates for those periods. To mitigate this problem Government proposes to amend the relevant provision in the CRC Order so that energy suppliers can provide an annual statement using 12 months of billed supply that may not match the CRC compliance year exactly but is within 30 calendar days of the compliance year. This annual statement would be acceptable for CRC purposes. This proposal would help mitigate the potential mismatch between billing periods and the CRC year and therefore reduce the amount of supplies that are estimated.

Consultation Question	
16.	**Do you agree with the proposal to amend the obligation on energy suppliers for phase 2. If not, please explain your reasoning.**

80. **Proposal 17: EU ETS Installations and CCA Facilities -** the CRC has been designed to target emissions which are not regulated under a Climate Change Agreement (CCA) or the EU Emissions Trading System (EU ETS). Stakeholder feedback has indicated that the processes designed to avoid double regulation have introduced significant complexity on organisations with CCA or EU ETS emissions. Under the current CRC rules organisations must report their CCA and EU ETS emissions in their footprint report, and annually report and surrender CRC allowances for electricity supplies to EU ETS installations and any supplies outside of their CCA facility/EU ETS installation boundary.

81. In addition organisations must consider any half hourly metered electricity supplies to their CCA facilities and EU ETS installations when assessing whether they qualify for CRC participation.

82. Organisations with a CCA may currently apply for any of the three exemptions (member, group or general), subject to their circumstances. The process for understanding, applying for, and verifying eligibility for the exemptions has been the subject of stakeholder criticism as to its complexity. In addition electricity supplies to EU ETS installations are within scope of the CRC, which has led to further stakeholder complaints – given that generation emissions are already regulated under the EU ETS.

83. Government therefore proposes to simplify the CRC's treatment of CCA and EU ETS emissions by amending the scheme's supply rules to remove all energy supplies to CCA facilities and EU ETS installations from the scheme, irrespective of whether self-supplied (e.g. electricity generated on site) or supplied via a third

party. There will no longer be any CRC obligations in respect of the energy supplies to such facilities/installations. This means that participants will no longer need to surrender CRC allowances in respect of electricity supplied to EU ETS or CCA installations.

84. While Government proposes to exclude supplies to those parts of a site covered by the respective CCA/EU ETS schemes, we do not propose excluding an entire site by virtue of the presence of a CCA or EU ETS process or activity on that site. One of the key considerations for this proposal is therefore accurately defining the CCA and EU ETS boundaries.

85. The CRC Order currently defines a CCA facility with reference to being subject to a CCA target. Using this existing definition the scope of a CCA facility would include the **Stationary Technical Unit**, where one or more of the regulated activities[7] is carried out, and any **Directly Associated Activities (**supporting activities on the same site). In addition, under the CCA's 90/10 rule the emission boundaries of the eligible facility is deemed to cover the whole site where the energy consumed in the Stationary Technical Unit and Directly Associated Activities is 90% or more of the site's total. This rule may be replaced with a 70/30 rule under the recent CCA consultation proposals[8].

86. The Order currently defines an EU ETS installation as –
a) an activity or installation within scope of the EU ETS Directive (2003/87/EC); and
b) any additional activity not included within Annex I of that Directive but approved in the United Kingdom under Article 24, but not an installation approved as excluded in the United Kingdom under Article 27.

87. Under the Order the definition of an EU ETS installation would include the **Stationary Technical unit**: where one or more activities listed in Schedule 1 of the ETS Regulations are carried out, and any **Directly Associated Activities** (activities on the same site, which have a technical connection with the activities carried out in the stationary technical unit and which could have an effect on greenhouse gas emissions and pollution). The installation boundary may or may not align with the physical site boundary depending on their circumstances. In the case of small emitters that have opted out of EU ETS these will still remain in scope of the EU ETS Directive (2003/87/EC) under the current proposal for EU ETS small emitters opt out. So small emitters will be treated the same as EU

[7] under the Pollution Prevention and Control (England and Wales) Regulations 2000, The Pollution Prevention and Control (Scotland) Regulations 2000 (SSI 2000/323) or The Pollution Prevention and Control Regulations (Northern Ireland) 2003)
[8] http://www.decc.gov.uk/en/content/cms/consultations/cca_simp_cons/cca_simp_cons.aspx

ETS installations in relation to CRC. Government proposes to make a minor amendment to the definition of an EU ETS installation to ensure small emitters are treated the same as other EU ETS installations.

88. Subsequent to the minor amendment to the EU ETS definition to address small emitters, Government does not intend making any further amendments to the current definitions of CCA facility and EU ETS installation, and therefore proposes disapplying the CRC's supply rules at only the CCA facility and EU ETS installation level. This proposal retains the terminology and boundaries which should already be familiar to organisations with a CCA or EU ETS process. Supplies of the four fuels (see proposal 12) to activities outside of their CCA facility and EU ETS installation boundaries would remain within scope of the CRC.

89. Under this proposal electricity supplies to CCA facilities/EU ETS installations will no longer need to be considered when assessing CRC qualification. This amendment will facilitate the removal of the three CCA exemptions, thereby requiring those organisations which qualify on the basis of electricity supplied to their non CCA facilities and EU ETS installations to participate in the scheme and comply with its compliance obligations. The impact of this proposal will vary at an individual organisation level, as any increases resulting from the removal of the three CCA exemptions would be offset by disapplying the CRC supply rules to CCA facilities and EU ETS installations.

90. Some organisations have argued that the three CCA exemptions should be retained, at the same time as excluding supplies to ETS installations and CCA facilities. Government has not followed this approach as CRC simplification is about reducing the administrative complexity of the CRC scheme, and efficiently reducing energy use which is not covered by EU ETS and CCAs. If we were to retain the current CCA exemptions as well as excluding supplies to EU ETS installations and CCA facilities it would not be a simplification of the rules. It would also reduce the coverage of the scheme in a manner which unjustifiably benefitted organisations with CCAs at the expense of those organisations who do not have CCAs. Our approach should reduce overlap between schemes, in a manner which is fair and simple.

91. If a site was to lose its CCA status, for whatever reason, or no longer undertook EU ETS activities, then that site would be eligible for the next scheme year of a phase of CRC, where that site belonged to a participant. Where that loss was part of the qualification period for the next phase and where the ex-CCA facility/EU ETS installation is the responsibility of a current CRC participant, then

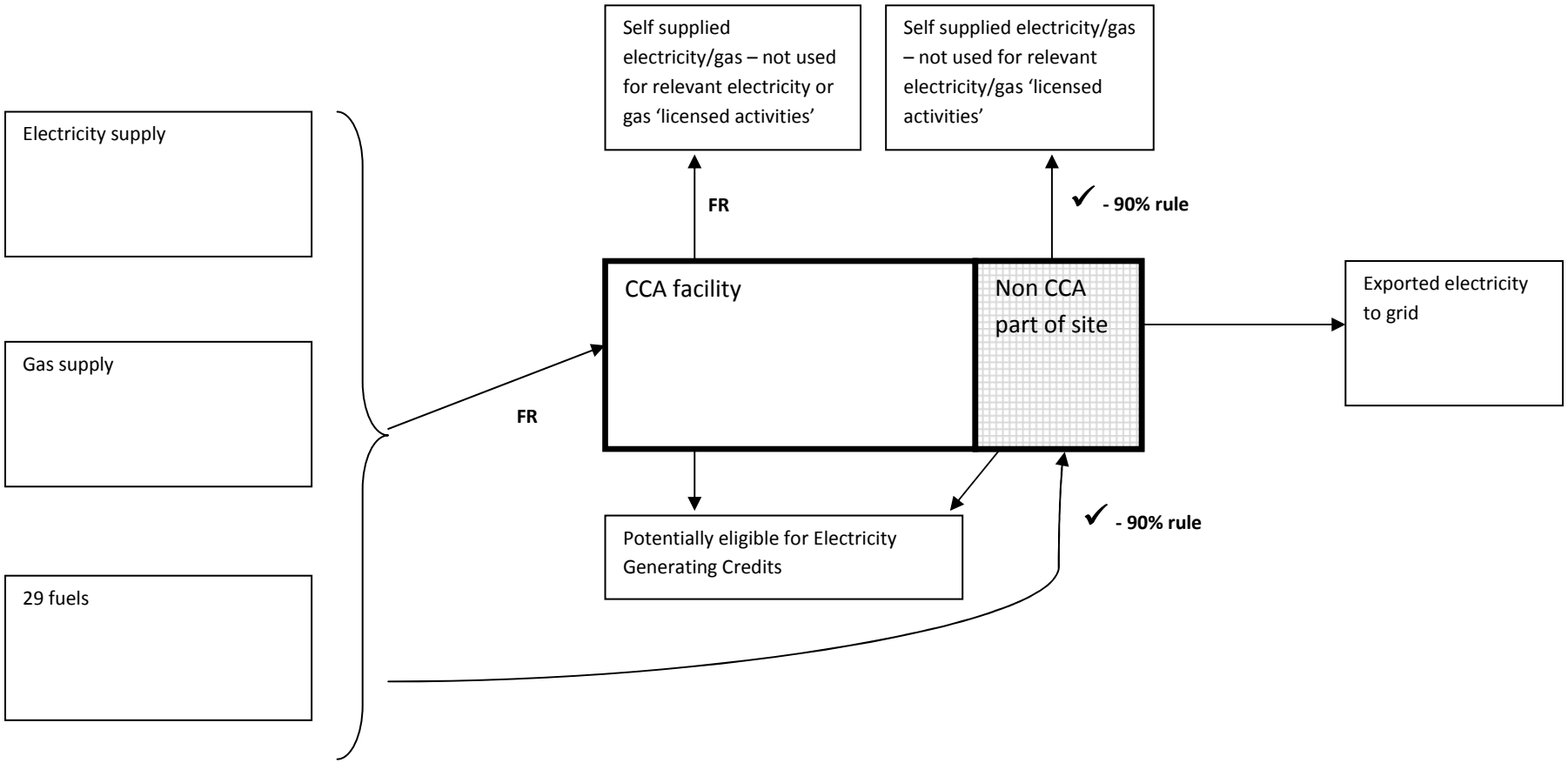
that site would count towards qualification of the next phase. There would be no CRC obligations in respect of ex-CCA facilities/ EU ETS installations which are the responsibility of organisations not participating in that phase of CRC. However all organisations would need to consider electricity supplies to their ex-CCA facilities/EU ETS installations when assessing their qualification status for future CRC phases.

92. Government is also aware that, under the current drafting of the Order, all CCA operators claiming a CCA exemption in CRC will lose their exemption from April 2012 due to the ending of their target period, the presence of which defines a CCA facility under the CRC Order. Government thereby proposes to amend the CCA exemption for the remainder of phase one so that those organisations who were successfully recertified under CCA scheme 2009/11 will not lose their exemption for the 2012/13 year and 2013/14 years of phase one. The CCA exemption for 2013/14 will only apply in respect of phase one compliance activities and not be applicable for any phase two obligations in the same year.

93. A summary of all the proposed simplification measures in this paper is shown graphically on the following pages

Consultation Question	
17.	**a) Do you agree with the proposal to disapply the CRC's supply rules to CCA facilities and EU ETS installations? If not, please explain reasoning** **b) Do you agree with the proposal to remove the three CCA exemptions? If not, please explain your reasoning.** **c) Do you agree with the IA assessment of the impact of new qualification rules, in particular for those who have CCA exemptions?** **d) If you have a general or group exemption, would you expect to qualify after removing your CCA and EU ETS emissions?** **e) For those who qualify, how many emissions would you expect to bring back to the scheme as a result of these changes?** **f) Government welcomes stakeholder representation on their emissions related to their CCA and EU ETS sites.**

Current situation – CCA facilities



Key

X – not a supply under CRC & ∴ **no** CRC obligations

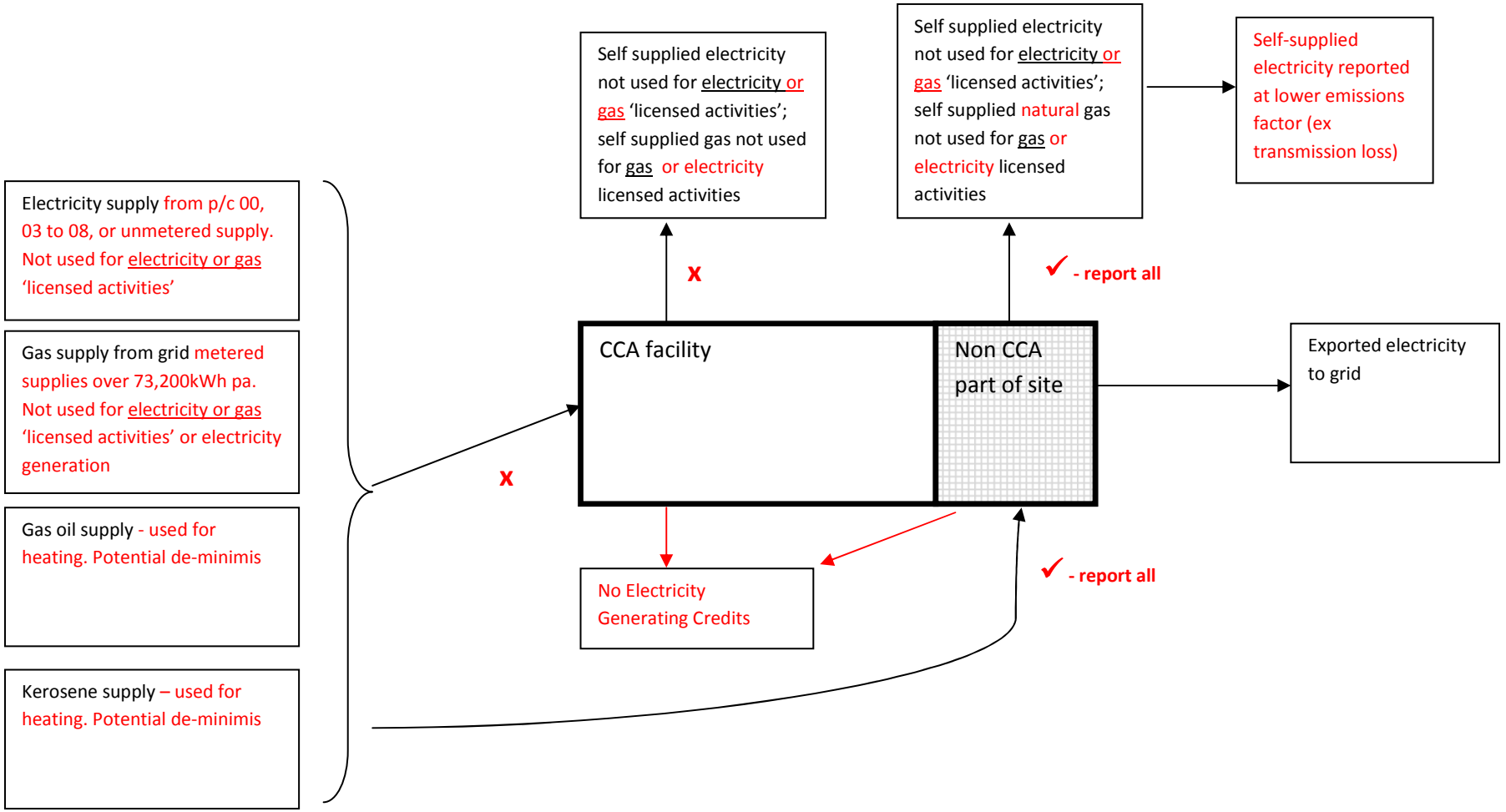
FR – CRC supply reportable in Footprint Report only & ∴ not covered by CRC allowances

✓ - 90% rule – a CRC supply that is subject to the 90% applicable percentage (ie reported in Footprint Report and potentially included in Annual Report and covered by CRC allowances)

✓ - report all – a CRC supply that must be reported in the annual report & covered by CRC allowances

'Licensed activities' – generation, transmission or distribution of electricity, or transport, supply or shipping of gas

Proposed situation – CCA facilities



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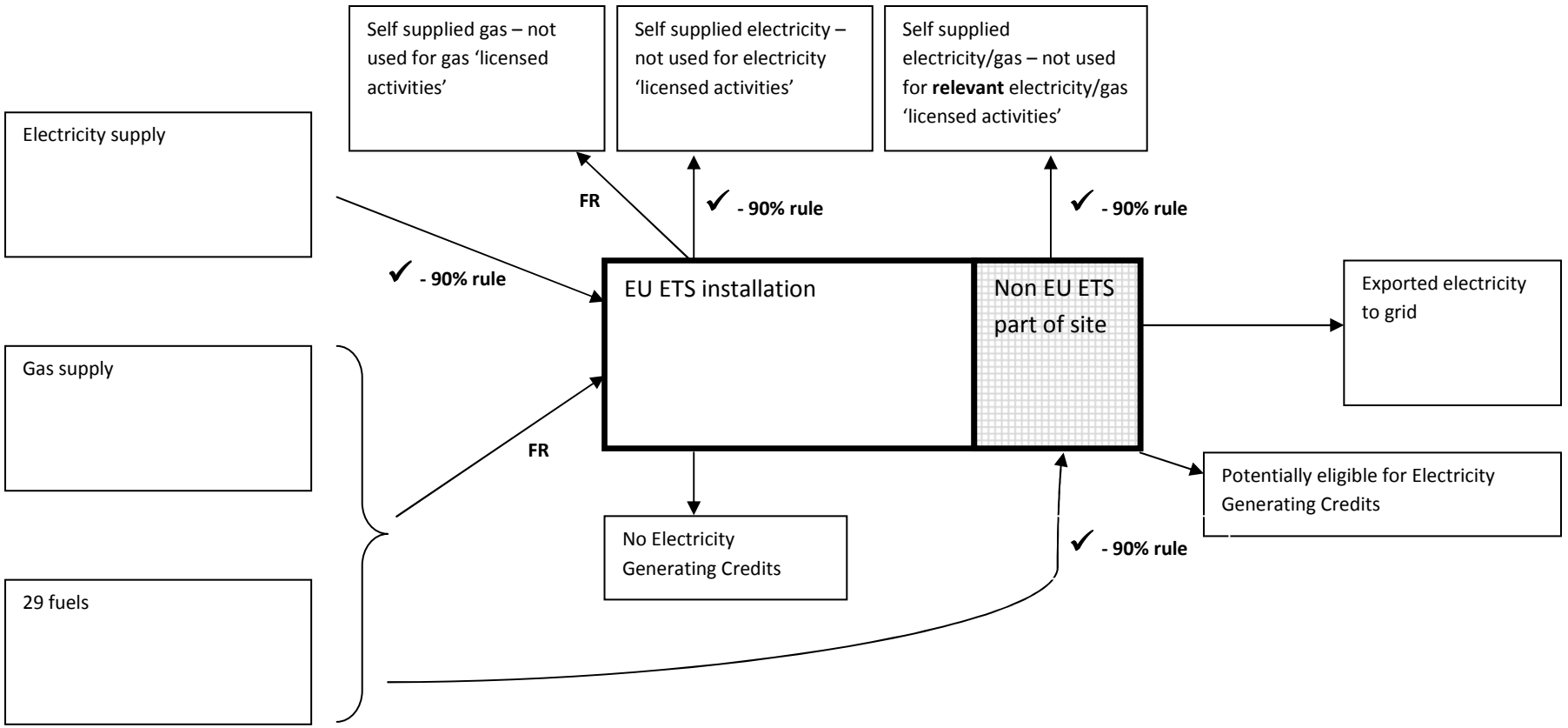
✓ - report all – a CRC supply that must be reported in the annual report & covered by CRC allowances

Red text – proposed simplification changes

'Licensed activities' – generation, transmission or distribution of electricity, or transport, supply or shipping of gas

Current situation – EU ETS installations



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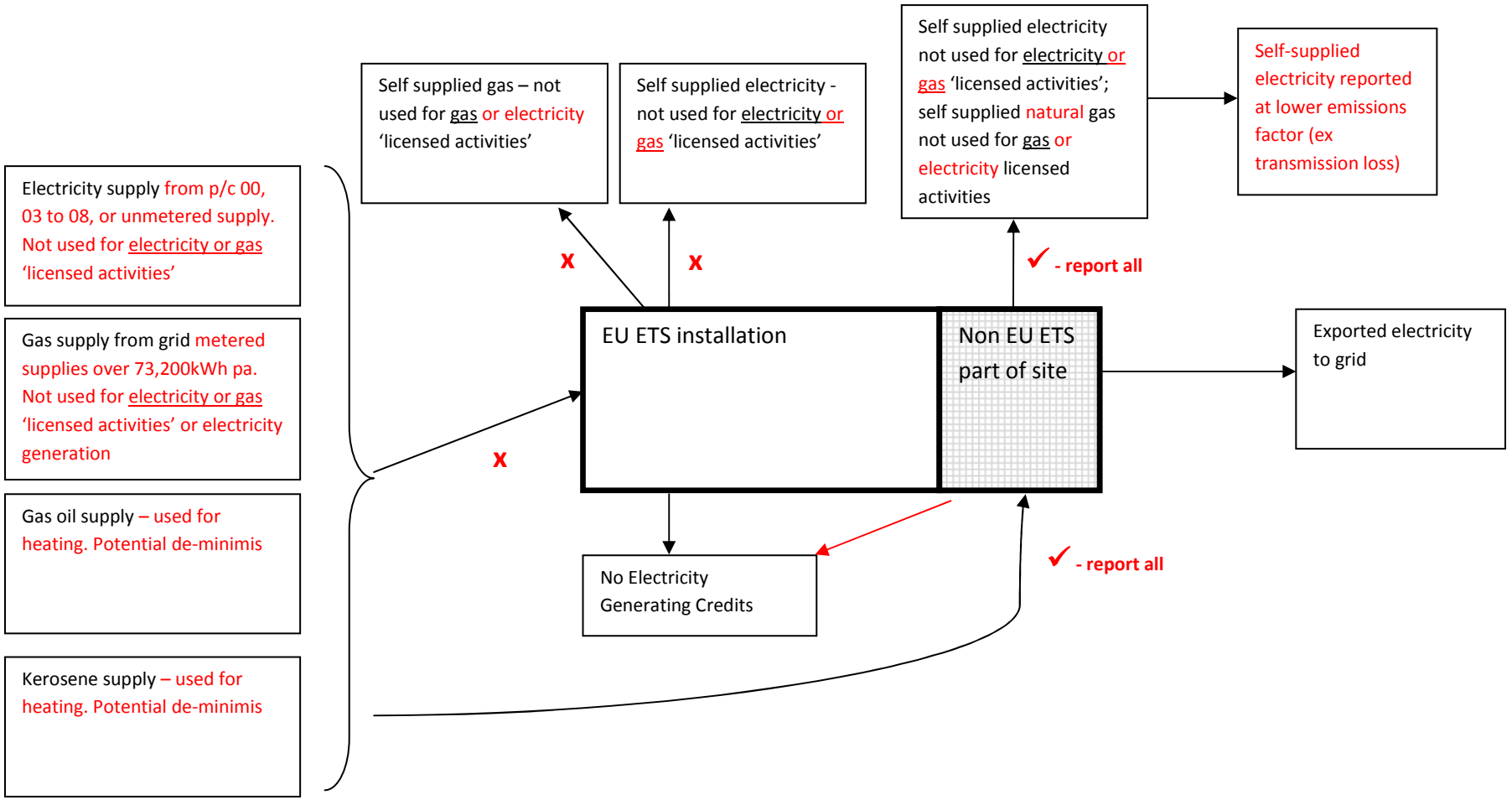
'Licensed activities' – generation, transmission or distribution of electricity, or transport, supply or shipping of gas

Proposed situation– EU ETS installations



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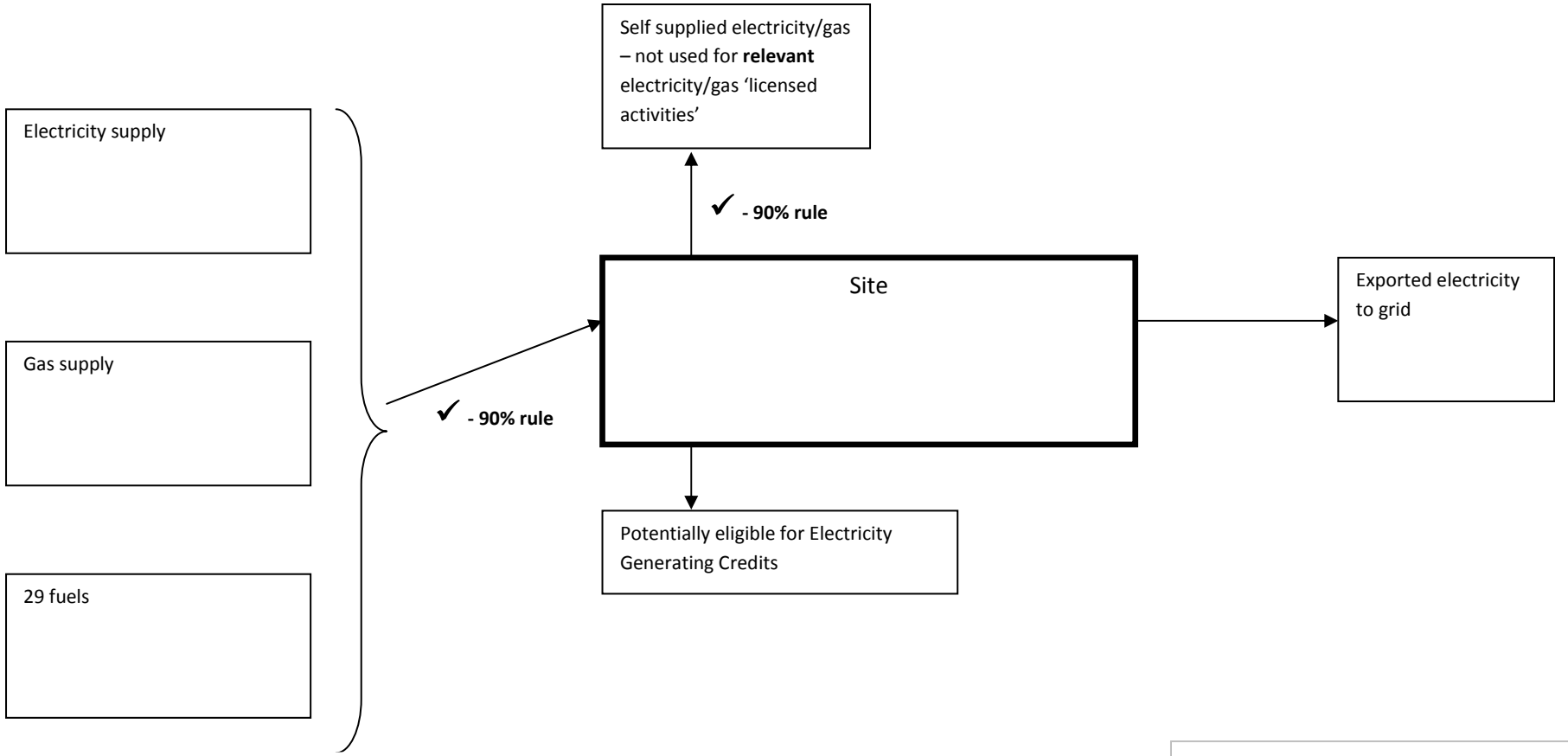
✓ - report all – a CRC supply that must be reported in the annual report & covered by CRC allowances

Red text – proposed simplification changes

'Licensed activities' – generation, transmission or distribution of electricity, or transport, supply or shipping of gas

Current situation – non CCA/EU ETS sites



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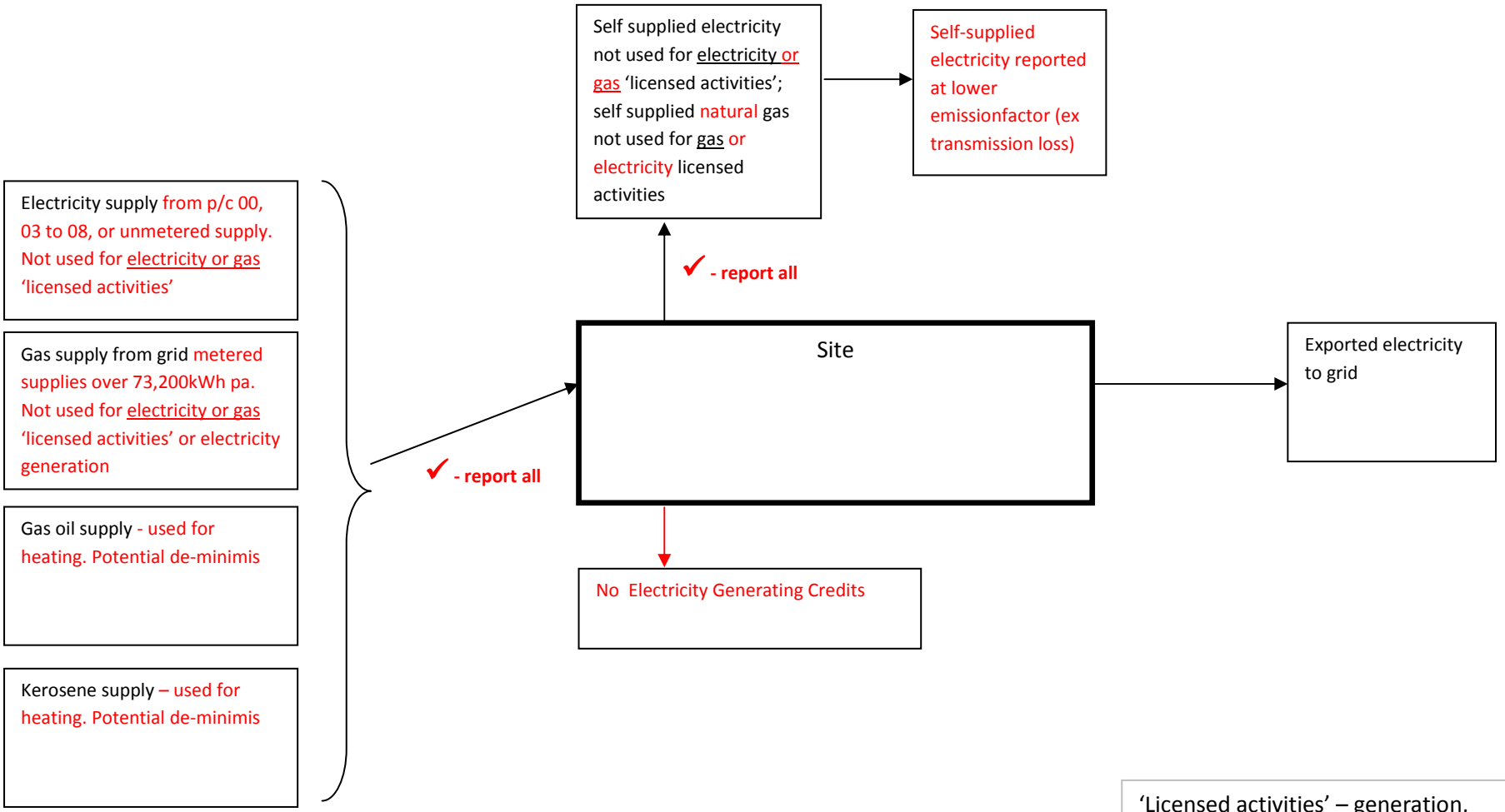
✓ - report all – a CRC supply that must be reported in the annual report & covered by CRC allowances

'Licensed activities' – generation, transmission or distribution of electricity, or transport, supply or shipping of gas

Proposed situation – non CCA/EU ETS sites



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✓ - report all – a CRC supply that must be reported in the annual report & covered by CRC allowances

Red text – proposed simplification changes

94. **Proposal 18: Electricity Generating Credits (EGCs)** – EGCs are currently available in a limited range of circumstances to recognise smaller scale electricity generation outside of the EU ETS which is not subsidised by Renewable Obligation Certificates (ROCs) or Feed in Tariff (FIT) payments. EGCs can be claimed to reduce a participant's footprint emissions and CRC emissions, with a commensurate reduction in the number of CRC allowances required to be surrendered.

95. Government proposes that the eligibility criteria for claiming EGCs needs to be reviewed in light of the wider simplification proposals referenced in this document. The proposed reduction in fuels covered by the scheme could lead to unintended consequences if participants could claim EGCs for generation where the input fuel was not within scope of the scheme.

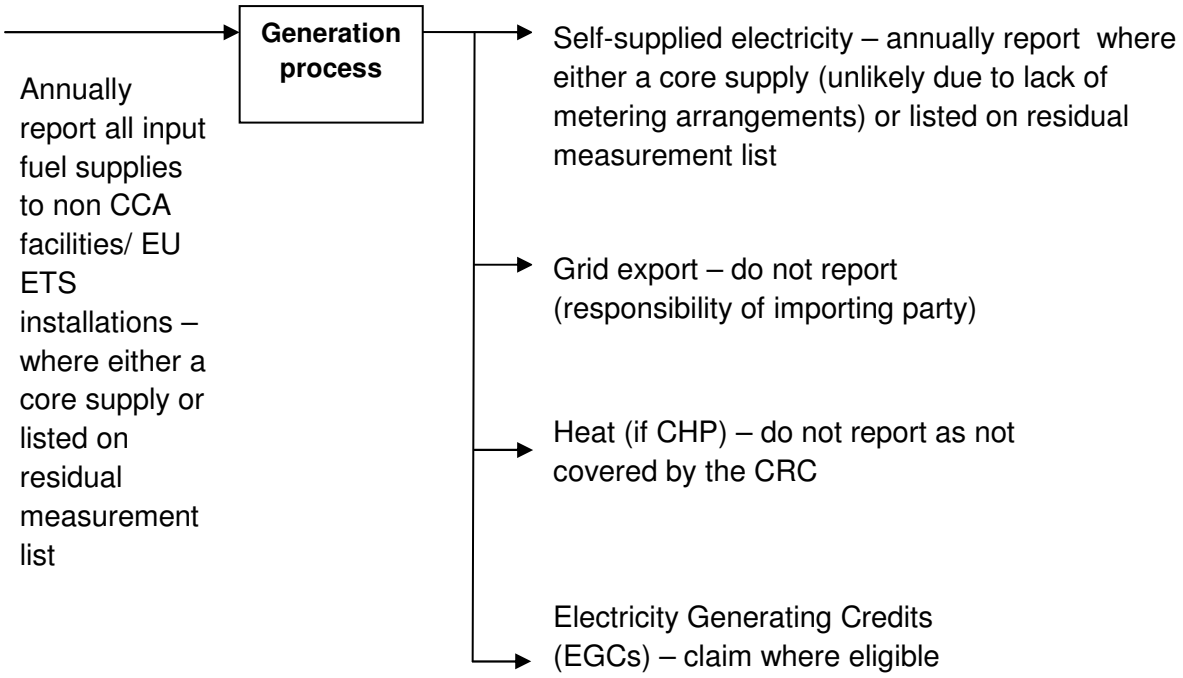
96. It is therefore proposed to remove the EGC provision (currently Article 31) from the CRC Order. Currently participants are required to report the input fuel into the generation process, report any commensurate self-supplied electricity and report the volume of EGCs claimed, where eligible. Under proposal 10 no fuel would be considered as a CRC supply, and therefore reportable, where used as an input fuel into an electricity generating process. The proposed removal of EGCs would effectively mean that participants would be required to report and surrender CRC allowances for all electricity meeting the supply and self-supply definitions, without being able to use EGCs as a means of reducing their CRC liability. The net impact on the scheme's emissions coverage should be minimal as the removal of the liability on the input fuel will be mitigated by the associated removal of EGCs – although there will be administrative savings associated with not having to report the input fuel.

97. This proposal would remove all of the complexity associated with EGC eligibility. It would clearly place the net CRC obligation on the electricity supply as well as addressing unintended consequences associated with the current drafting of the Order.

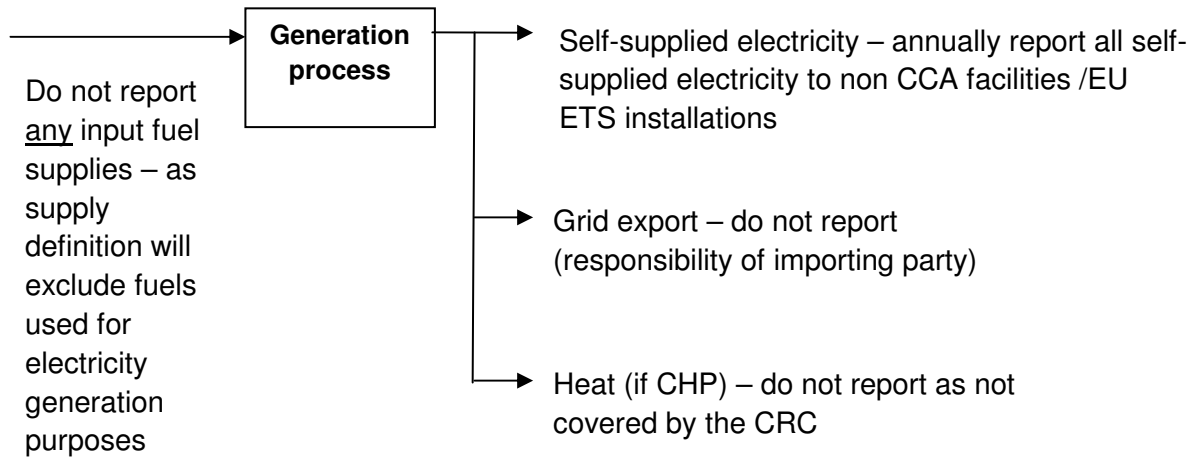
98. The removal of EGCs would have the additional benefit of aligning the treatment of unsubsidised on-site generation with all other forms of generation, helping to reinforce the energy efficiency focus of the scheme. Government acknowledges that this proposal would result in some winners and losers in terms of the net result, especially where participants have used their significant generational capacity to reduce their CRC emissions liability to zero. However Government maintains that removing EGCs is a clear simplification, and results in a level-playing field between renewable and non-renewable forms of generation.

Diagram 2: Treatment of electricity generation

Current situation



Proposed situation – electricity generation



CHP plants are a difficult case here. We have two broad options. Government's proposal is to treat input fuels to CHP plants as being primarily used for electricity generating purposes, and therefore out of scope of the CRC. However, a secondary option, which Government is considering, is to apply a standard assumption as to the amount of fuel that a CHP plant uses to generate heat, and to require that this is reported.

Consultation Question	
18.	**Do you agree with the proposal to remove Electricity Generating Credits (EGCs) from the scheme, including the treatment of CHP? If not, please provide your reasoning.**

1.3 Organisational rules - Disaggregation

99. Under the current scheme, qualification for private sector undertakings is assessed at group level.[9] Currently article 25 allows groups with Significant Group Undertakings (SGU)[10] to 'disaggregate' their SGUs for separate participation where these meet the qualifying electricity threshold in their own right. Any disaggregation which results in the parent falling below the qualification threshold is not permitted.

100. Stakeholder feedback from a number of participating organisations has shown that some participants would be content with retaining the existing organisational rules. However other stakeholders flagged a number of ongoing difficulties. Determining the group structure has led to unanticipated levels of administrative burden for some organisations, particularly when there are large complex structures and where the highest parent is overseas. Stakeholder feedback has also indicated that the SGU concept has been a source of complexity, and greater flexibility to disaggregate would be welcomed.

101. **Proposal 19: Increasing the flexibility for disaggregation** – In response to stakeholder feedback Government proposes to change the organisational rules of the scheme to provide greater flexibility to undertakings as to how they participate in the scheme. This means retaining current rules for qualification, so that at the beginning of each phase, participants register on behalf of the whole group. Government proposes to extend the disaggregation provision to allow any undertaking within the group to disaggregate for separate participation, providing that mutual agreement is indicated by all parties as explained in proposal 20.

102. Disaggregated undertakings would be required to register and participate in their own right for the length of a phase, paying the registration and subsistence

[9] Set out in s 1161 (5), section 1162 and schedule 7 of the Companies Act 2006. The CRC organisational rules are set out in part 2, chapter 4 and schedule 4 of the CRC Order.

[10] An SGU is a subsidiary undertaking or a subsidiary group of undertakings that, were they not owned by another organisation, would have met the qualification criteria in their own right.

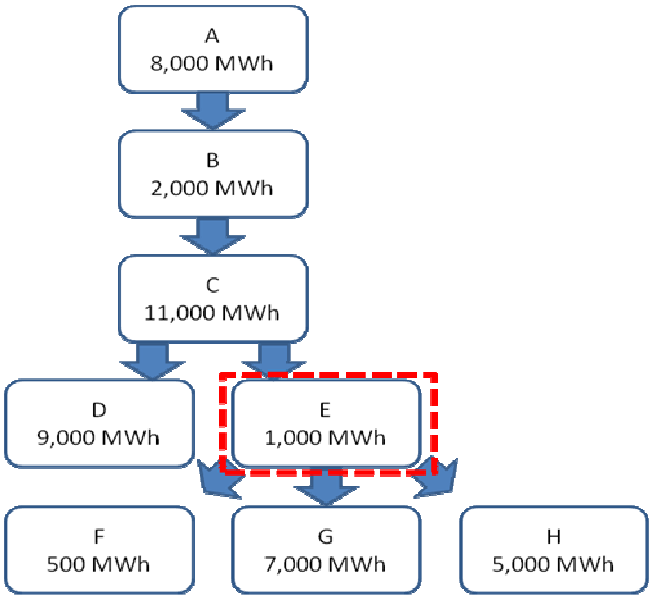
fees, and being liable to comply. At the start of the following phase they will re-aggregate for the purposes of qualification under the highest parent although they may choose to continue as a separate participant for the purpose of their registration.

103. There will be no minimum threshold for subsidiaries to disaggregate, and no requirement that the remainder of the group must exceed the qualification threshold. Therefore Government proposes to remove the concept of the SGU (schedule 4 (2)) for the purposes of determining what size of organisation can participate in the CRC. The information requirements on SGUs at registration and in annual reports will also be removed.

104. After any disaggregation the remainder of the group will still be required to participate in CRC even if electricity consumption is very low (e.g. a small headquarter office). Government will not require the disaggregated undertaking to satisfy the CRC supply criteria as a condition for disaggregation.

105. Any subsidiary undertaking at any level within the organisation will be able to disaggregate. As per current rules, the highest parent will not be able to disaggregate itself from the remaining of its group (but can disaggregate its subsidiaries to achieve the same result). Where a parent (which is not the highest parent) disaggregates without its subsidiaries, these will be absorbed by the highest parent group (under A, in the diagram below) or required to register separately.

Diagram 3: Example of organisational structure



106. In the diagram above, ‘E’ would be allowed to disaggregate even though it is a parent undertaking, providing that either subsidiaries ‘F’,’G’, and ‘H’ are each absorbed by ‘A’, or move with ‘E’, or register in their own right.

107. Joint & several liability will be retained among the group (including the overseas highest parent, where this exists) until disaggregation has been completed, all relevant undertakings have registered and consent has been provided by all parties. Once disaggregation has taken place, joint and several liability will no longer apply between the remaining group/parent and the newly disaggregated participant for the remaining of the phase (joint and several liability will remain in relation to liabilities accrued in early years of a phase where an undertaking disaggregates part way through a phase). When group members re-aggregate in subsequent phases, they will not become jointly & severally liable in respect of breaches arising during a previous phase where they were disaggregated. These liabilities accrue separately.

108. Disaggregated undertakings will appear separately in the performance league table as any other CRC participant. However, in order to deter participants from disaggregating their bad performers, the Environment Agency will publish in the performance league table for the following compliance year, that a participant has disaggregated undertakings from its group.

109. Government considers that this proposal will provide flexibility, whilst minimising disruption for organisations that are content with current rules. It would enable groups to further align their CRC reporting with financial reporting structures and with corporate greenhouse gas reporting requirements. Furthermore, stakeholders have indicated that this flexibility would encourage greater effectiveness in driving energy efficiency by allowing CRC participation to be targeted at the organisational level most able to effect change.

Consultation Question	
19.	**Do you agree with the proposal to increase the flexibility to disaggregate undertakings or groups for separate participation in the CRC? If not, please explain your reasoning.**

110. **Proposal 20: Mutual consent to disaggregation –** We propose to include provisions to ensure there is mutual consent to disaggregation and to ensure there is no emissions loss when subsidiaries are not included in a disaggregation of a parent, as follows:

a) Using diagram 3 as illustration, as per current rules, 'A' expresses its consent to the disaggregation of 'E' by requesting the administrator to register 'E' as a separate participant, as part of its application for registration.

b) Where a disaggregation is requested in a year other than the registration year, 'A' will provide its consent by requesting 'E''s disaggregation via the registry.

c) 'E' will indicate its consent to the disaggregation by completing an application for registration within the required timeframe.

These steps will ensure there is mutual consent among the parties for disaggregation. Therefore, where 'A' and 'E' do not comply with either a) b) or c), the application by 'A' includes 'E' as a member of A. Moreover, in order to avoid emissions loss, where 'E' has one or more subsidiaries ('F', 'G', 'H'), where these are not included in 'E''s application, 'A' will be deemed to be responsible for their emissions, unless a request is made by either 'A' or 'E' as part of their application, that 'F', 'G' and 'H' are disaggregated and 'F', 'G', 'H' individually complete an application for registration in time.

Consultation Question	
20.	**Do you agree with the proposed approach to consent for disaggregation? If not, please explain your reasoning.**

111. **Proposal 21: Disaggregation during the first year of a phase –** Current rules require that the parent group must register within 3 months of the registration window if it wishes to disaggregate an SGU. Government intends to increase flexibility for the timing of disaggregation, so that a disaggregation can be requested at any point during the first year of a phase and an application completed by the last working day of April of the following compliance year. So all that needs to occur is that the parent group must request a disaggregation by the end of the first year of a phase. Then, the subsidiary undertaking or group of undertakings that wish to disaggregate must register before the last working day of April of the following compliance year, in line with the consent process set out above (see proposal 20). If these steps occur, the administrator will approve the disaggregation so it takes effect for the upcoming reporting year of the phase. Disaggregated undertakings will submit a report with respect to their emissions in the upcoming year. So for example, if an organisation wishes to disaggregate in time for the 2014-15 compliance year, the registration application must be made by April 2014 at the latest.

Consultation Question	
21.	**Do you agree with the proposed simplification of the registration process? If not, please explain your reasoning.**

112. **Proposal 22: Introducing annual disaggregation** – In addition, to allow maximum flexibility, Government proposes that participants have the opportunity to disaggregate undertakings or groups of undertakings on an annual basis. A request for disaggregation by the parent group can be submitted via the Registry at any point in any compliance year of a phase.

113. An application for registration as a disaggregated undertaking or group of undertakings should be completed by the last working day of April, in order to take effect for the upcoming compliance year[11].

114. The disaggregated entity will be responsible for emissions for the upcoming year, whilst the parent group will be responsible for the emissions of the previous compliance year.

115. If registration of a disaggregated entity is not completed by the last day of April, or the administrator is not satisfied that the registration is complete with regards to mutual consent process set out above (see proposal 20), the disaggregation would be deemed not to have occurred.

Consultation Question	
22.	**Do you agree with the proposal to allow undertakings or groups of undertakings to disaggregate on an annual basis? If not, please explain your reasoning.**

116. **Proposal 23: Disaggregation of Academies (England only)** - As part of the CRC simplification process, Government has reviewed the treatment of Academies to help incentivise energy reduction, maintain emissions coverage and minimise the level of administrative burden associated with their participation.

[11] For example, if an organisation wishes to disaggregate in time for the 2015-16 compliance year, the registration application must be made by April 2015 at the latest.

117. Currently maintained schools (state funded) are grouped with their funding local authority, and Academies with the local authority in the area where they reside, for the purpose of CRC participation. CRC allowance costs generated from maintained schools' and Academies' emissions are met by participating local authorities who have the facility to recharge this cost to the Dedicated Schools Grant (DSG). This means that the scheme is administered at local authority level, without differential impact on schools depending on their own actions, and this limits the effectiveness of the scheme in encouraging energy use reduction in individual maintained schools or Academies. It is important that all schools reduce their energy use as they are community assets and can set an example in promoting energy efficiency. The schools sector is also key to helping Government meet its commitment to be the greenest ever as it is responsible for 21% of public sector emissions Government recognises the difficulty in developing proposals that will provide the most incentive to reduce energy across the entire schools and Academies estate and is grateful for the stakeholder responses it received to its published discussion paper on options for Academies CRC participation. In addition to some of the options in the discussion paper, Government now wishes to examine a further option.

118. All maintained schools and Academies return data annually about their spend on energy. It may be possible to use these data to develop a simpler scheme, maintaining reputational drivers, whereby failure to reduce energy costs had a direct financial impact on schools. We propose to work up such a scheme in detail during the consultation period.

119. Government therefore proposes one of the four following options for Academies CRC participation.

1. Local Authorities continue to meet CRC liabilities for maintained schools and Academies, with Government exploring changes to funding mechanisms for meeting the cost of CRC allowances from Academies emissions.
2. Academies participate in the CRC as a group with the Department for Education who would be responsible for meeting their CRC liabilities. This proposal was recommended by a number of stakeholders in their response to the published Academies discussion paper.
3. Academies continue to be assessed as part of a local authority's estate for the purpose of CRC qualification. Once qualified a participating local authority could decide to disaggregate any of their Academies and individual Academies would also have the option to participate separately in the CRC.
4. Both maintained schools and Academies participate in a new scheme based on their energy spend, with the intention that their success or failure in reducing energy costs should have a direct financial effect on the school.

Consultation Question	
23.	**Which one of the four proposals for Academies CRC participation will help to incentivise and achieve energy use reduction. Please explain your reasoning.**

1.4 Organisational rules – Designated Changes

120. Designated changes rules (schedule 6, part 3, section 1 and 2) cover organisational structure changes during a phase that involve a change in control according to the Companies Act tests[12]. Under current rules, in order to minimise burdens on participants, designated changes occur only when Significant Group Undertakings (SGUs) or CRC participants are concerned. They are designed to

a. avoid emissions loss from the scheme when significant energy users leave a CRC participant or become standalone entities; and

b. avoid relative changes in the performance league table position, by requiring the administrator to update the historical average baselines for the buyer and the seller to account for the change in the PLT.

Organisational structure changes that do not involve an SGU or CRC participant (referred to as 'non designated changes') are covered by the supply rules and are captured in annual reports. No notification to the administrator is needed and there is no adjustment of historical baselines in the performance league table. Record must be kept of these changes in the evidence pack. In order to keep administrative burdens to the minimum, Government proposes to keep current rules on non-designated changes.

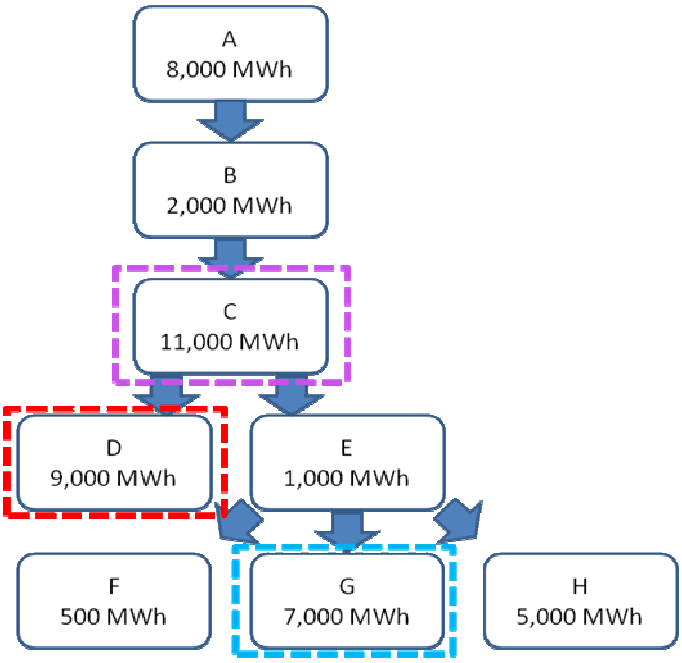
121. Government proposes to maintain current designated changes rules when a CRC participant joins another CRC participant.

122. As per current rules, when apparent changes in control occur due to undertakings going into insolvency or administration procedures, this is not a designated change, and the participant would remain liable for accounting for emissions and purchasing allowances. We intend to add a new duty to provide information and assistance, placed on the affected undertaking as well as the administrator / liquidator / receiver, as appropriate.

[12] This is where there is a change of control based on the parent/subsidiary definition in section 1162 and schedule 7 of the Company's act.

123. **Proposal 24: Re-define and re-name SGUs**. Feedback suggests that the SGU concept has caused participants difficulty. Government therefore proposes to scrap the SGU concept for accounting for designated changes and to replace it with a simpler definition that covers large single undertakings only. This will remove the complexity around nested SGUs (i.e. SGUs within SGUs in a CRC participant) and related complexity in accounting for these. Going forward, designated changes will only cover CRC participants and single undertaking members of a participant that were large enough to qualify for the CRC in their own right at qualification (a "Participant Equivalent"). Qualification will be based on the qualification year.

Diagram 4: Example of Participant Equivalents within a CRC group



124. The new definition will only apply to single undertakings that are subsidiaries in a group (i.e. the top parent cannot be a Participant Equivalent). Where an organisational change involves a Participant Equivalent, any of its subsidiaries involved in that transfer would also become the CRC responsibility of the new owner for the whole year in which the change occurs, as illustrated in the examples below. Government considers that it is not practical nor simple to track historical emissions for smaller subsidiaries transferred together with Participant Equivalents. However, where both the old and new owners agree to the administrator updating historical emissions for all undertakings involved in the transaction for performance league table purposes, Government proposes that emissions of smaller subsidiaries could be optionally provided to the administrator.

125. **Proposal 25: Requirement to report on Participant Equivalents' emissions at registration and in annual reports.** Currently, CRC participants are required to report all of their SGUs emissions both at registration and in annual reports. The latter requirement enables the administrator to update the historical averages corresponding to an SGU when a change occurs for performance league table purposes. Government proposes to remove reporting requirements related to SGUs at registration and in annual reports and to replace it with a requirement to report on Participant Equivalents instead. Therefore, when a designated change occurs that involves a Participant Equivalent, the EA will update historical averages to reflect the change in the performance league table. The new requirement to report annually on large single undertakings rather than SGUs should bring a net simplification, as participants already collect emissions data at an undertaking level in order to maintain evidence packs.

126. The following paragraphs show some examples of how the new designated change rules would be applied in practice.

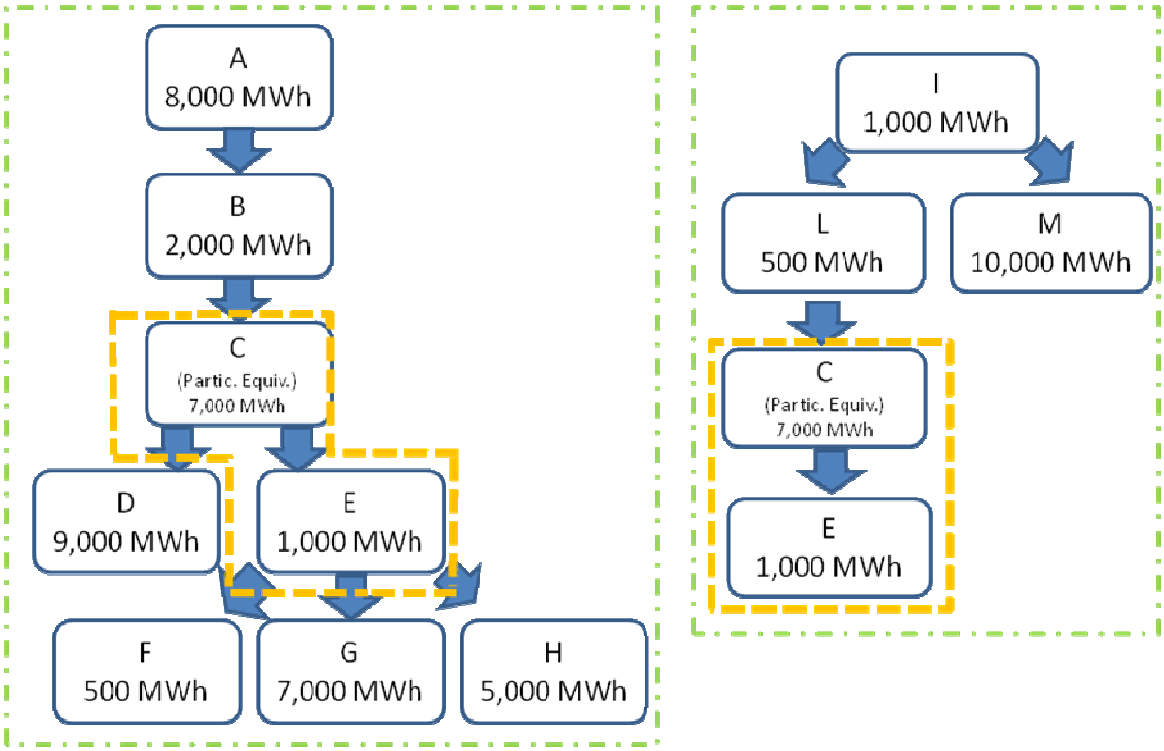
Consultation Question	
24.	**a) Do you agree with the proposed definition of Participant Equivalent? If not, please explain your reasoning.** **b) Can you see any unintended consequences as a result of this definition? If yes, please explain your reasoning.**

127. **Proposal 26: When a Participant Equivalent leaves a CRC participant and joins another CRC participant, this is a designated change.** When a Participant Equivalent leaves a CRC participant but joins another CRC participant, we propose to maintain the rules currently used for SGUs but to apply them to the Participant Equivalent instead. As per current rules, the new owner reports on the Participant Equivalent's emissions for the whole year and buys allowances for the Participant Equivalent for the whole year in which the change occurs. The new owner can request that the Participant Equivalent continues as a separate participant.

128. In the example below, 'C' is a Participant Equivalent, which is transferred from CRC participant ('A') to CRC participant ('I') with its subsidiary 'E' (not a Participant Equivalent). As 'C' and 'E' are transferred as part of a same transfer, 'I' must report on both 'C' and 'E' for the entire year, but the Performance

League Table will only be updated in respect of 'C'. 'I' can either absorb 'C' and 'E' in its group or disaggregate 'C' and 'E' for separate participation.

Diagram 5: Example of transfer of a Participant Equivalent to a CRC Participant

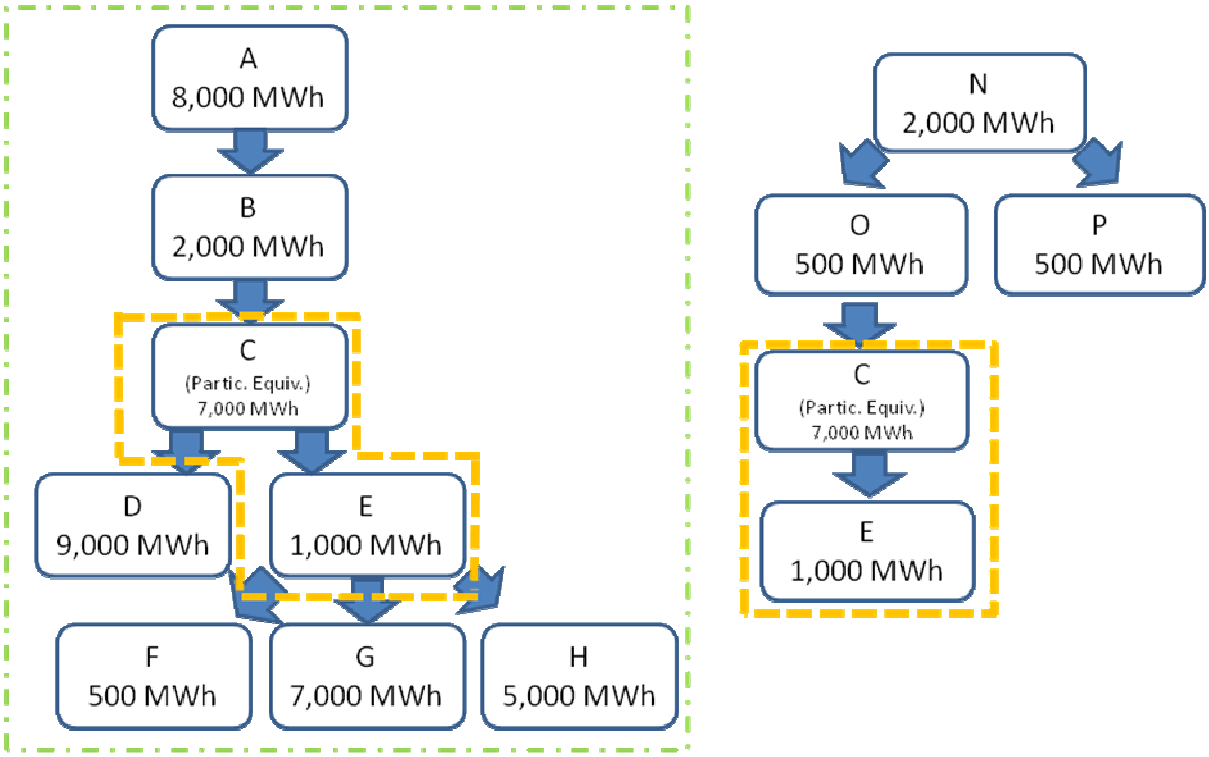


129. **Proposal 27: When a Participant Equivalent joins a non-CRC participant or becomes a standalone entity, this is a designated change.** To maintain CRC emissions coverage the scheme will still capture changes that involve a Participant Equivalent when they leave a CRC participant and join a non-CRC participant, or they leave a group and do not become a member of another group (i.e. become a standalone entity). In these cases, Government will require the Participant Equivalent to register with the administrator and carry on as a CRC participant in its own right. Government proposes to make it optional, not mandatory, for non CRC participants that acquire a Participant Equivalent to register on their behalf, thus reducing burdens on the former.

130. In the example below, 'C' is a Participant Equivalent, while its subsidiary 'E' is not. 'C' and its subsidiary 'E' are both transferred from CRC participant ('A') to non CRC participant ('N'). However, given that both members of the group are involved in the same transfer, designated changes rules will apply to both. Thus 'C' and 'E' can either register as a separate CRC participant group or 'N' can

register and participate in CRC on behalf of 'C' and 'E' together. 'C' and 'E' will be re-aggregated with their parent group under 'N' for qualification for the next phase.

Diagram 6: Example of transfer of a Participant Equivalent to a non CRC Participant



131. **Proposal 28: When a CRC participant joins a non CRC participant, this is a designated change.** In order to maintain emissions coverage of the scheme, when a CRC participant ('A') joins a non-CRC participant ('N'), Government requires the CRC participant either carries on as a separate participant or is absorbed by the new owner. Government proposes to make it optional, not mandatory, for non CRC participants that acquire a participant to register on their behalf, thus reducing burdens on the former.

132. **Proposal 29: Review of liabilities for designated changes** – As per current rules, the members of the group will be jointly and severally liable with the group as long as they are members of the group, from time to time. To reduce burdens on non CRC participants, they will not be jointly and severally liable with the CRC participant or Participant Equivalent that joins their group, if they do not register on their behalf during a phase.

133. **Proposal 30: Maintain rules that deal with responsibility for emissions following a designated change.** In order to ensure a simpler administration of these changes, especially where there have been a number of changes for the organisation during the year, Government proposes to maintain current rules whereby, when a designated change occurs, the new owner will be responsible for emissions for the whole year in which the change occurs. Therefore only the position at the end of the year is relevant for the purposes of annual reporting and purchase and surrender of allowances, as the responsibility for supplies goes back to the start of the year.

Consultation Question	
25.	**a) Do you agree with the proposed simplification of designated changes rules? If not, please explain your reasoning.** **b) Do you see any unintended consequences with this proposal? If yes, please explain your reasoning.** **c) Do you agree with the approach to the allocation of responsibility for emissions under designated changes? If not, please explain your reasoning.**

134. **Proposal 31: Reduce reporting burdens related to organisational changes occurring post-qualification.** Government intends to reduce reporting burdens on participants to account for changes occurring in the post-qualification period (i.e. the period between qualification and registration), so that the information requested on organisations in the qualification year is not duplicated (i.e. provided by the old owner and the new one). The following simplifications are proposed:

- When a CRC participant ('A') joins another CRC participant ('B') in the post-qualification period, only 'B' needs to register and provide information in respect of 'A'. Similarly, when a Participant Equivalent 'C' leaves 'A' and joins 'B', only 'B' will provide information on 'C', both 'A' and 'B' must register.
- We propose that when a Participant Equivalent 'C' leaves a CRC participant 'A' and does not become a member of another group, they both need to register as participants. To reduce reporting burdens, we propose that the old parent group will not be required to provide information which applied to the Participant Equivalent in the qualification year at registration, as this information will be submitted by the Participant Equivalent as part of its registration.

- We propose to make it optional, not mandatory, for non-CRC participants that acquire a qualifying group or Participant Equivalent to register on the Participant Equivalent's behalf, thus reducing burdens on the former.

Consultation Question	
26.	**a) Do you agree with the proposed simplification of changes dealing with post-qualification changes? If not, please explain your reasoning.** **b) Do you see any unintended consequences with this proposal? If yes, please explain your reasoning.**

135. **Proposal 32: Notification and registration timing** – Government proposes to extend the registration window for designated changes. Currently a registration must be completed within 3 months of the change occurring. Under the proposed rules, a registration must be completed by the last working day of April of the compliance year following the transaction.

136. Regarding notification the administrator must be informed of a designated change within 3 months of the change occurring, and in any event by the last working day in April.

Consultation Question	
27.	**Do you agree with the proposed simplification on notification and registration timing? If not, please explain your reasoning.**

1.5 Organisational rules - Trusts

137. **Proposal 33: Treatment of trusts.** Much of the commercial property in the UK is tenanted. For a number of commercial, legal and tax related reasons, investment in UK commercial property takes place through a variety of holding structures and involve complex arrangements including assets through a trust structure.

138. The only trust assets which are relevant for the purposes of the CRC scheme are those which are capable of receiving a supply of electricity, gas or other fuels. Such assets fall in two categories:
- real property;
- shareholdings in companies (or analogous interests in other types of undertaking) which own real property.

139. Assets held on trust are held by the trustee, in a fiduciary capacity[13], for the benefit of one or more beneficiaries. The Companies Act 2006 states that shareholdings in companies held by a person in a fiduciary capacity shall be treated as not held by him (i.e. it belongs to the beneficial owner for which the trustee holds the legal title). Therefore CRC responsibility is with the beneficiaries of the trust for shareholdings. Government does not plan to change these rules.

140. However the Companies Act does not address real property assets held in a fiduciary capacity. In this case, if the trustee is an undertaking and is responsible for the supply to the trust, then the CRC responsibility lies with the trustee. It is normal for trustee businesses to provide their trustee and nominee services to many different clients in respect of many different trusts with completely unrelated beneficiaries. Under the current CRC rules the trustee must aggregate energy supplies in relation to property assets which they hold for different trusts and beneficiaries. Trustees are therefore responsible for collecting energy data from all of their trusts and are responsible for the purchase of CRC allowances.

141. Stakeholders have raised concerns about the current CRC rules in relation to property assets held on trust. The current CRC rules places responsibility for CRC on the party (the trustee) that has no economic interest in the property and no control over the energy efficiency performance of the assets held in trust (unlike a parent undertaking).

142. Stakeholders have also highlighted the problem that the CRC groups the trustee's own assets and the separate trusts it holds together, with liability for personal trustee assets and all trust assets being aggregated for CRC qualification purposes and for purchasing allowances. This adds complexity and is in contrast to tax and insolvency law which views each trust separately and ignores the identity of the legal entity which is the trustee.

[13] "fiduciary capacity" means where a person (a trustee) holds property as its nominal owner for the good of one or more beneficiaries

143. In response to stakeholder feedback and in order to simplify the treatment of trusts, Government is proposing a set of rules to determine where CRC responsibility should lie. Due to the range of ways that investors can hold property and the different categories of property trust there is not a one size fits all policy solution for where CRC responsibility should lie. These rules seek to implement the principle that the CRC responsibility should rest with the party who has greatest influence over the energy efficiency opportunities.

- For trusts where there is one controlling beneficial owner (i.e. the beneficial ownership of the trust is absolute and the trustee has no discretion), such as bare trusts, the supplies to these trusts should be grouped with the beneficial owner for qualification purposes and participation. CRC responsibility should rest with the beneficial owner.
- For trusts where there is an investor (beneficiary) with a majority share of over 50%, the supplies to these trusts should be grouped with the beneficial owner with the majority share for qualification purposes and participation. CRC responsibility should rest with the investor with the majority share.

144. Government proposes to treat the following trusts as undertakings for the purposes of CRC. Treating trusts as undertakings would keep the CRC responsibility of individual trusts separate from each other and trustees. This option would ensure the removal of joint and several liability among separate trusts.

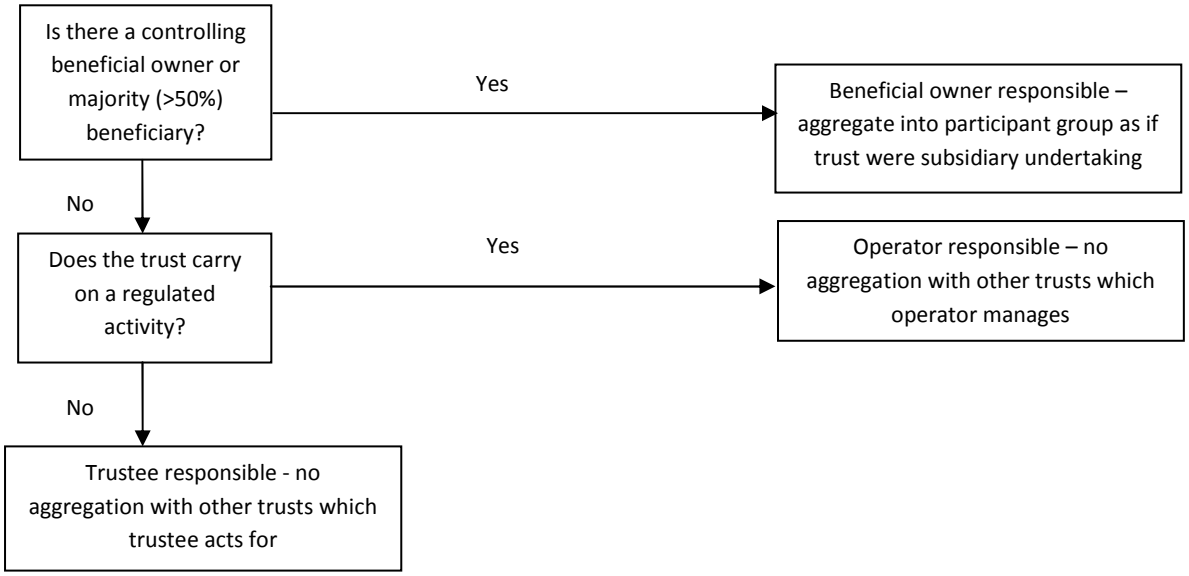
- For trusts that carry out activities under the Financial Services and Market Act 2000 (FMSA 2000) such as private equity funds or collective investments, these should be treated as separate entities for qualification purposes and participation in CRC. CRC responsibility should rest with the operator for the trust/private equity fund.
- For all other trusts that do not meet either of the above criteria, including discretionary trusts and unincorporated property joint ventures, these trusts should each be treated as separate entities for qualification and participation in CRC purposes. CRC responsibility should remain with the trustee, with each trust being registered separately. Unrelated trusts would not have to be grouped together, unlike the current arrangement.

145. Where the real property assets are held on trust by more than one trustee, the qualifying electricity supply to the property in a particular trust should be the responsibility of the trustee which assumes responsibility for the electricity supply to those property assets held in trust. Where no one trustee assumes individual responsibility for such supplies, the trustees must decide amongst themselves

which of them is to assume such responsibility for the purposes of the scheme. In the event that the trustees cannot decide who is to assume such responsibility, they should notify the relevant administrator of such inability to make a decision. The administrator will then liaise with the trustees with a view to brokering an agreement regarding which trustee assumes responsibility for the supplies. This is in line with the current rules.

146. The following flow chart shows the decision making process to be followed in determining who should take CRC responsibility in different types of trust.

Diagram 7: Flow chart on decision making process



147. Government considers that this proposed approach would avoid the imposition of disproportionate burdens on trustees. It would allocate responsibility for CRC to an entity with a genuine commercial interest in the property and its use, and with reasonable access to the information and resources necessary for effective and efficient compliance with the CRC.

Consultation Question	
28.	**a) Do you agree with the proposal on the treatment of trusts. If not, please provide your reasoning.** **b) Government welcomes stakeholder representation on the potential impact of this proposal on their organisation's qualification status for the scheme and resultant emission coverage impacts.**

1.6 Allowance sales

148. One of the core elements of the CRC Energy Efficiency Scheme is the process for selling allowances, and the design of the trading mechanism. Prior to the 2010 Spending Review announcement, CRC allowances were going to be sold:

- In the introductory phase, through upfront annual fixed price sales of allowances, with the participants who didn't buy enough to cover their liabilities having the option of buying on the secondary market or buying additional CRC allowances from the Environment Agency via the safety valve mechanism, which is a buy-only link to the EU ETS market.
- In the second phase via an upfront sealed bid uniform price auction. The number of allowances would have been capped. If participants did not, or were not able to, purchase sufficient allowances at the auction they would have had the option to purchase allowances on the secondary market or via the 'safety-valve' mechanism noted above.

149. Feedback from stakeholders has indicated that participants may have difficulties forecasting their emissions in the first year of the introductory phase. Feedback also suggested that auctioning in the second phase may create an additional layer of complexity for those organisations that are not experienced with trading.

150. **Proposal 34: Simplifying the allowance sale in the introductory phase.** In the CRC Amendment Order, which came into force in April 2011, Government extended the introductory phase so that there would be three years of allowance sales in the introductory phase – in respect of emissions in 2011/12, 2012/13, and 2013/14. At the same time, the first sale of allowances in the second phase of the CRC was delayed, until the year 2014/15. This was in order to provide participants with an extra year of reporting, complying and surrendering allowances in the introductory phase.

151. Within the phases set in the CRC Order, the timing of sales is a matter to be determined in regulations to be made by the Treasury under section 21 of the Finance Act 2008. Government has already announced that for the 2011/12 reporting year, the allowance sale will be held after the end of the reporting year, at a price of £12/tCO_2.

152. For the remainder of the introductory phase, Government plans to continue with retrospective allowance sales, so participants have more time to get used to reporting and measuring their emissions, prior to the beginning of the second phase of the scheme.

153. **Proposal 35: Phase two and beyond: moving away from a cap**. The Government sees significant advantage for CRC participants in offering a trading based regulatory scheme which offers benefits to those who invest in energy efficiency early and can use trading for risk mitigation. However, in order to simplify this trading element, Government plans to move away from the original intention to impose a cap on allowances that can be issued. Not imposing a cap on allowances will mean that there will be no need to have auctions, which should lower the administrative costs for participants as there will be no need to develop auctioning strategies. Government recognises that not having a cap will reduce the level of certainty over the emissions savings that the CRC will deliver, it should increase the level of certainty over the price and therefore simplify the business case for energy efficiency investments.

154. **Proposal 36: Fixed price sales**. Therefore, Government proposes that in the second phase of the CRC there should be two fixed-price sales of allowances. One forecast sale, at the beginning of the year, and one buy-to-comply sale, after the end of the reporting year. The price at the forecast sale will be lower than the price at the buy-to-comply sale, so that participants have an incentive to forecast their emissions before the start of the year, and buy allowances in advance. However, participants would have the choice to purchase allowances at either sale and have the option of hedging risks by trading allowances.

155. **Proposal 37: Removing the safety valve**. The buy-to-comply sale at the end of the year would effectively put in place a maximum price that participants would have to pay to cover their CRC liabilities for that year. This therefore means there is no further need to retain the previous safety valve mechanism, whereby participants could buy additional CRC allowances via the safety valve mechanism in the capped scheme. Government therefore proposes removing the possibility of being able to buy additional CRC allowances via the safety valve mechanism as this would be unnecessary.

156. In addition to the option to buy allowances at the forecast sale at the beginning of the year, and the option to buy allowances at the buy-to-comply price at the end of the year, participants will also be able to buy allowances on the secondary market. This ability to trade will mean that participants who have surplus allowances after the forecast sale will be able to benefit by selling these allowances to other CRC participants who would otherwise need to buy at the buy-to-comply sale.

157. **Proposal 38: Banking**. Currently, allowances are valid within the introductory phase of the CRC, but not beyond the end of the first phase. So essentially they can be banked from year to year, but not from phase to phase.

158. The Government proposes to continue to allow banking within a phase of the scheme. This avoids the risk of a price crash from year to year, which could exist if no banking was allowed and the market became over-supplied with allowances. So if a participant purchases more allowances than they need at the forecast sale, they will have two options for how to treat the excess allowances – they can either sell them on the secondary market, or bank them for use in later years.

159. The Government proposes to prevent the banking of allowances between phases to allow greater flexibility to change allowance prices between phases.

160. **Proposal 39: Surrender deadline.** In response to participants' comments on the draft Allocation Regulations, Government proposes to amend the date for the surrender of allowances from the end of July to the end of September. It is intended that this change would come into effect from 2013 onwards (and so cover the last two years of phase 1 and the subsequent phases), to allow more time between the end of July payment date and the surrender date. In addition, the end date for the secondary allocation period will be brought forward to the end of the first week in September,[14] ensuring participants receive their allocated allowances at least three weeks before the date on which they are required to surrender allowances.

161. These changes will assist participants in complying with their obligations under both the Allocation Regulations and the Order. For 2012, the approach to enforcement, where a participant has requested and paid for allowances by the end of July but not received their allocation, will be set out in scheme administrator guidance.

Consultation Question	
29.	**a) Do you agree with the proposed approach to allowance sales and banking in the second and subsequent phases? If not please explain your reasoning.** **b) Do you agree with extending the surrender deadline to the end of September from 2013 onwards ? If not please explain your reasoning.**

[14] The change to the secondary allocation period will be implemented through the Allocation Regulations rather than the CRC Order.

	c) Government welcomes stakeholder representation on their administrative costs associated with the compliance sale that would simplify buying CRC allowances .

1.7 Reporting and record keeping

162. **Proposal 40: Removing the requirement for a phase two annual report in 2013-14.** Currently, in the last year of the introductory phase (2013-14) participants would be required to submit two annual reports. One annual report would be for the final year of the introductory phase, according to which they would need to surrender allowances. The second annual report would be to cover the first year of the second phase, and would be for the purposes of compiling the performance league table (PLT). Because of the changes that are being put in place, the annual report for the second phase would have slightly different information to the annual report for the first phase. This would be a double burden on participants that we would like to avoid.

163. Government therefore proposes to remove the requirement to submit an annual report in respect of 2013-14 emissions, for the second phase. So the only annual report that will need to be submitted in respect of 2013-14 emissions will be for the last compliance year of the introductory phase. This would reduce the overlap between the introductory phase and second phase.

164. This proposal would have an implication for the Performance League Table. It means that it will not be possible to publish a Performance League Table, in the current format, in Autumn 2015. However, as the proposal 42 on the performance league table demonstrates, Government are proposing to remove the detailed rules on the nature of the reputational driver, and the metrics used from the legislation and putting the detail in guidance. This will give additional flexibility to review the reputational element in future years.

Consultation Question	
30.	**Do you agree with the proposal to remove the requirement to submit two annual reports in respect of the 2013-14 compliance year? If not please explain reasoning.**

165. **Proposal 41: Reducing burdens associated with data retention.** Under the current rules participants are required to maintain records of their first footprint report, first annual report and their first position in the performance league table for as long as they are subject to the CRC. For all other annual reports, there is a requirement to keep these for at least 7 years after the end of the phase in which the scheme year in question relates. This means that the records for annual reports would need to be held by participants for up to 12 years. Stakeholder feedback has indicated that this is an excessive period of time to retain records associated with the CRC and has a significant cost impact in data storage terms.

166. Government therefore propose to reduce the length of time participants need to retain records:

- The first annual report, which would have to be kept for the length of the time which the participant was part of the scheme, to now be held for at least six years after the end of the first annual report scheme year.

- The length of time that individual annual reports are required to be kept to be reduced to at least six years after the end of the scheme year in question. This would mean that for annual report 2011/12 this would now have to be held for 6 years, until April 2018 - under the current scheme requirements this would have been until April 2021.

- Evidence packs which support each annual report should be kept for at least six years after the end of the scheme year to which it relates.

- The length of time that the first footprint report is required to be kept should be reduced to six years after the end of the scheme year in question. This would mean the first footprint report now be held for at least 6 years. Under the current scheme requirements this would have been for as long as the organisation was a participant in the scheme.

- The first position in the performance league table to be kept at least six years after the end of the scheme year in which the first performance league table was published. This can be contrasted with the current rule which is for however long the participant still remains part of the scheme.

Consultation Question	
31.	**Do you agree with the proposals to reduce the length of time that records are required to be held? If not, please provide your reasoning.**

167. Reducing burdens associated with evidence packs. Stakeholder feedback has indicated that the requirements and guidance on maintaining information in evidence packs is overly burdensome. This will to some extent be mitigated by the proposal to reduce the number of fuels required to be recorded as it will reduce the amount of information required to be collected and held as part of the evidence pack. However, until the first round of audits have been completed it is not possible to make a decision on what further requirements for the evidence pack can be removed. After the first year of annual reporting and the associated auditing, is complete, the scheme administrators will review the guidance on evidence packs with a view to revising it to ensure that the advice is light-touch and for future phases fully aligned with the simplified legislation.

168. **Proposal 42: Voluntary reporting of geographical emissions data**. Government has identified that there would be benefit if reported emissions data could be split according to whether the emissions came from England, Scotland, Wales or Northern Ireland. This would allow Devolved Administrations to better track their progress against their respective emission reduction targets. Under current reporting rules, it is not possible to split an organisation's reported emissions data on this basis.

169. One potential solution to this problem would be to give participants an option to report the geographical split of their emissions data in their annual reports. Government does not wish to require participants to report this data, as this may increase reporting burdens. But Government is considering requesting additional information on a voluntary basis. One option would be to ask participants to report the split of their emissions, at a high level, between England, Scotland, Wales or Northern Ireland. A second option would be to ask participants to report more specifically down to site-level, so that the local authority can be identified.

170. While these voluntary reporting options have not been included in the draft legislation accompanying this consultation, Government is actively considering them, and would welcome views as to whether this is something that participants would be able or willing to provide?

Consultation Question	
32.	**Would you be able to report emissions data split by geographical region? (Yes/No) If yes, what data would you be willing or able to report?**

1.8 The Performance League Table

171. **Proposal 43: Performance League Table.** Stakeholders have provided feedback relating to the performance league table during the informal dialogue process. There is a large degree of consensus about the usefulness of having a reputational driver for energy efficiency, however stakeholders have questioned the current performance league table and its associated metrics.

172. Government believes that it is important to see what impact the performance league table has in creating a reputational driver for energy efficiency. We need to learn the lessons from the publication of the first couple of performance league tables before making a decision on whether to amend this element of the scheme. This means it is not possible to make a decision on the nature of the reputational element of the scheme at this point.

173. Going forward, Government proposes to retain a reputational driver for the scheme. However, the detailed rules on the nature of the reputational driver, and the metrics used, will be removed from the legislation and placed in guidance. This will allow Government to defer taking a decision over the nature of the reputational element of the scheme that will be put in place for phase two. Deferring this decision will allow further evidence to be gathered before a decision is taken. It will:

- Allow consideration of how successful the early performance league tables have been, and how the data has been used;
- Allow time for further detailed discussions with stakeholders over what would be the most effective reputational driver going forward; and
- Allow Government to take into account wider policy developments before coming to a decision.

Consultation Question	
33.	**Do you agree with the proposal to move the detailed rules on the nature of the reputational driver, and the metrics used, in the performance league table from the scheme legislation into guidance? If not, please provide your reasoning.**

1.9 Charging

174. **Proposal 44: Fees and charges** for administering the scheme will be reviewed for future phases to ensure charges reflect future compliance activities. The type of charges will also remain the same, with the single exception of the proposed administrative charge in respect of purchases of allowances via the Safety Valve (as this is no longer required).

175. Even under a simplified CRC, the scheme administrators must still carry out the majority of current activities such as registration and compliance. In addition the Environment Agency will continue to administer the Registry.

176. The administrators calculated their charges for the CRC regime in early 2009. At that time it was anticipated that there would be around 5000 participants in the scheme. The charges were therefore based on this number of participants sharing the costs of maintaining the system infrastructure, and the number of staff needed to oversee its operation. We currently have only ~2100 active participants in the scheme meaning that the share of the costs per participant is greater than originally forecast. Although, wherever possible, the administrators have reduced resources so they are appropriate to the number of participants.

177. In future phases, as the scheme and its membership mature, the administrators will review the charge levels to ensure the charges reflect future compliance activities.

1.10 Enforcement: Appeals

178. **Proposal 45: Appeals** Under the current CRC Order the Secretary of State and the Devolved Administration are the appeal bodies for appeals raised under the CRC Order. These appeal bodies may delegate the management of appeal hearings to an independent third party, whilst commissioning recommendations from such parties in respect of each appeal. The actual appeal determination may not however be delegated by the appeal bodies. Appeals by Government departments and their devolved administration equivalents, as scheme

participants, are the exception to this provision, with the CRC Order stipulating the use of an independent third party to determine such appeals.

179. It is proposed that from phase two onwards the General Regulatory Chamber of the First Tier Tribunal is specified as the appeals body for all CRC appeals in England and Wales. The Planning Appeals Commission will be appointed in respect of appeals in Northern Ireland. Scottish Ministers will remain the appeal body for appeals in Scotland, to provide consistency with other Environmental Appeals and cost effectiveness. The exception being appeals against decisions taken by Ministers in which case an independent person will be appointed to hear the appeal. In England, Wales and Northern Ireland where the administrator is the appealing participant then an independent third party will be appointed and have powers to manage and determine the CRC appeal. This change will completely remove the Secretary of State and the devolved administration equivalents in England, Wales and Northern Ireland from the CRC appeal process.

180. The rules and procedures of the General Regulatory Chamber can be found via the following URL: http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/environment/rules-and-legislation.htm. The existing 40 working day period to lodge an appeal under the current CRC scheme Order would change to 28 calendar days under the First Trier Tribunal.

Consultation Question	
34.	**a) Do you agree with the proposal to appoint independent third parties to determine CRC appeals in England, Wales and Northern Ireland ? If not, please provide your reasoning.** **b) Do you consider the rules of the General Regulatory Chamber of the First Tier Tribunal would be suitable for CRC appeals? If not please explain your reasoning.** **c) Do you agree that Scottish Ministers should continue to hear CRC appeals for Scotland?**

1.11 Guidance

181. **Proposal 46: Scheme guidance** will be reviewed and consolidated for both the introductory phase and future phases. The administrators are currently conducting a review of the guidance for the introductory phase and have

recommended the existing guidance products should be reduced to three documents covering:

- Qualification
- Compliance
- Use of the Registry

182. The revised guidance for Compliance and Use of the Registry is anticipated to be published in 2012. For future phases the consolidated guidance will be updated to reflect the outcome of the simplification review.

1.12 Technical amendments

183. Government proposes to take the opportunity presented by the Amendment Order to correct reference errors and make some minor technical amendments in the original CRC Order. The proposed changes are listed below.

Order reference & version	**Technical amendment**
C.003	**Definition of principal place of activity** The definition of 'principal place of activity' will be amended in order to (1) relate it to representatives in addition to applicants and participants and (2) remove reference to the principal place of activity being in the UK (to remove the circularity with Art. 73).
C.024	**Undertakings: applications by groups** Amendments will clarify the treatment of administration, insolvency, winding up/liquidation will be clarified.
C.033.1.b	**General CCA exemptions** *Amendment will clarify that the period in question is that which a participant is under a CCA target and not just a CCL discount period.* • Change the reference to the 'CCA target period' to the 'exemption CCA target period'.

C.033 Draft CRC Order version 1.1	**Annual report** *Amendment will clarify requirement for participant to quantify supplies to each participant equivalent.* • Participant must provide separately in the annual report the amount of the supplies to each Participant Equivalent included in the group.
C.044 Draft CRC Order version 1.1	**CRC emissions** *Amendment to clarify that the lowest value of CRC emissions is zero.* • Insert a provision to state that the lowest value of CRC emissions is zero (in a similar manner to the footprint reference in article 41(3) of the original CRC Order).
C.072	**Cancellation of registrations of participants** Amendments will clarify that the administrator must be satisfied that a participant 'no longer' carries out a scheme activity permanently in the UK ie the paragraph should not apply to participants that only temporarily cease carrying on business or become dormant.
C.073	**Account Holder** Amendments will enable an applicant group to choose a representative to hold the compliance account if the highest parent is based overseas, even where a member of the applicant group has its principal place of activity in the UK.
C.080 Draft CRC Order version 1.1	**Civil Penalties** *Amendment to clarify requirement for administrator to impose a civil penalty.* • Remove 'may be or' in article 76.
C.090 and C.102	**Notices to provide information** *Amendment will allow an information notice served under Article 90 to be withdrawn. (The penalties for failure to comply with an Art 90 information notice are set out in Article 102.)* • Amend the Order so that penalty notices under Article 90 can be withdrawn.

C.095	**Failure to Register** *Amendment will be made to clarify that the daily rate civil penalty for failure to register will accrue from the date when registration must be made.*
C.S.01.03.3 & 4 Draft CRC Order version 1.1	**Fuels** *Amendment to clarify definition/scope of fuels covered by the Scheme.* • Delete reference to definition of waste (as removed from fuels table) and biomass as neither fuels are within scope of the simplified scheme.
C.S.01.04 Draft CRC Order version 1.1	**Fuels table** *Amendment to clarify relevant British Standard.* • Reference to British Standards in sub-references should read BS2869 and not BS2689.
C.S.04.01.f and Explanatory Note Part 1	**Undertakings** *Amendment will clarify an inconsistent reference to a type of undertaking.* • Reference should be made to a 'charitable purpose' as defined in the Order, rather than to a 'charitable activity'.
C.S.05.03	**Contact information** Amendments will require that the applicant provides at registration contact details of the following: a) the registering member of the group b) the highest parent (whether UK or overseas), <u>if different from a) and from the compliance account holder</u> c) each Participant Equivalent In addition, para 3(b) will <u>capture individuals</u> as well as undertakings that act as a representative for an overseas company.
C.S.05.06	**Total supplies of qualifying electricity** Requirements here will apply to the applicant <u>and</u> to Participant Equivalents members of the group.

C.S.11 and C.S.11.07	**Service of documents** *Amendments will improve the ability of the administrator to effectively administer the Scheme.* • Amend the Order so that the 'proper address' can be the email address of the person exercising management control. • Amend the Order to require a participant to report any change of e-mail address.

Consultation Question	
35.	**Do you agree with the proposal to amend and update reference and technical errors in the original Order? If not, please provide your reasoning.**

1.13 Delivery timetable

184. This simplification package has been created with the intention of bringing the changes into effect at the beginning of the second phase of the CRC scheme. This was in order to give Government sufficient time to gather stakeholder opinion on the changes, and understand the impacts, before they come into effect. In addition, changing the scheme in the middle of a phase could create additional administrative burden for participants. Whereas by introducing any changes at the beginning of phase 2 participants will be aware well in advance of what the differences will be and how to change their administrative and reporting practices. This approach was agreed by the majority of respondents to our consultation in November 2010. However, we could investigate the possibility of bringing in some or all of these simplifications faster than the beginning of the second phase of the scheme (e.g. the reduction in number of fuels).

Consultation Question	
36.	**Do you agree with the approach to bring in the simplifications at the beginning of the second phase of the CRC scheme. If not would you like Government to investigate the possibility of bringing in some or all of the simplifications faster, so they affect the end of the introductory phase? Please explain your reasoning.**

Consultation Question	
37.	**Government welcomes stakeholder representation on the proportion of their current administrative costs they are still likely to incur post the introduction of the simplification measures detailed in this document. Future administrative costs broken down by one-off, registration, annual report and external costs would be especially welcomed.**

Annexes

List of questions

Question 1: Do you agree with the proposal to restrict qualification to supplies through settled half hourly meters only? If no please explain your reasoning.

Question 2: Do you agree with the proposal for automatic registration? If not please explain your reasoning.

Question 3: Do you agree with the proposal to clarify the treatment of supplies at the direction of another party? If not, please explain your reasoning.

Question 4: Do you agree with the proposal to remove the payment criterion from the supply criteria? If not, please explain your reasoning.

Question 5: Do you agree with the proposal, and associated definitions, to expand the scope of unmetered supplies captured by the CRC? If not, please explain your reasoning.

Question 6: Do you agree with the proposal to exclude domestic electricity and gas supplies from the scope of the scheme on the basis of their supplying meters? If not, please explain your reasoning

Question 7: Do you agree with the proposal to restrict the circumstances where unconsumed supply can be claimed? If not, please explain your reasoning.

Question 8a: Do you agree with the proposal to disapply the landlord/tenant rule in respect of ground lease arrangements? If not, please explain your reasoning.

Question 8b: Do you agree that 40 years is an appropriate lease duration for this proposal? If not please explain your reasoning.

Question 8c: Government welcomes stakeholder representation on the potential impact of this proposal on the scheme's emissions coverage.

Question 9: Do you agree with the proposal to extend the self-supply exclusions to supply arrangements and for cross licensed activities? If not, please explain your reasoning.

Question 9b: Government welcomes stakeholder representation on the potential impact of this proposal on their qualification status for the scheme and resultant emissions coverage impacts.

Question 10: Do you agree with the proposal to revise the emission factor used for self-supplied electricity. If not, please explain your reasoning.

Question 11a: Do you agree with the proposal to reduce the number of fuels covered by the scheme? If not, please explain your reasoning.

Question 11b: Do you agree with the proposed method of defining gas oil and kerosene? If not, please explain your reasoning

Question 11c: Do you agree with the proposed treatment of gas supplies? If not, please explain your reasoning.

Question 12a: Do you agree with the proposal to restrict the scope of gas oil and kerosene where used for heating purposes? If not please explain your reasoning.

Question 12b: Do you agree with the proposed definition of heating purposes? If not please explain your reasoning

Question 12c: Do you agree with the proposed treatment of CHP? If not please explain your reasoning

Question 13a: Do you agree with the proposal to align the CRC emission factors and adopt those used for greenhouse gas reporting purposes which are updated annually? If not please explain your reasoning.

Question 13b: Do you agree with our proposal that the CRC emission factors should be aligned with those that are published in each compliance year? If not please explain your reasoning.

Question 14a: Do you agree with the proposal to remove the 90% rule and the associated compliance activities (footprint report, residual measurement list, core/residual distinction)? If not, please explain reasoning

Question 14b: Would you support the proposal to require reporting on 100% of gas oil and kerosene used for heating purposes? If not, and you would prefer a de minimis approach, please explain your reasoning. If you prefer a de minimis, at what level do you feel it should be set? Would you support a de minimis also being applied to gas consumption?

Question 15 :Do you agree with the proposal to extend the annual energy statement obligation to registered suppliers of gas oil and kerosene? If not, please explain your reasoning

Question 16: Do you agree with the proposal to amend the obligation on energy suppliers for phase 2. If not, please explain your reasoning.

Question 17a: Do you agree with the proposal to disapply the CRC's supply rules to CCA facilities and EU ETS installations? If not, please explain reasoning

Question17b: Do you agree with the proposal to remove the three CCA exemptions? If not, please explain reasoning

Question 17c: Do you agree with the IA assessment of the impact of new qualification rules, in particular for those who have CCA exemptions?

Question 17d: If you have a general or group exemption, would you expect to qualify after removing your CCA and EU ETS emissions?

Question 17e: For those, who qualify, how many emissions would you expect to bring back to the scheme as a result of these changes?

Question 17f: Government welcomes stakeholder representation on their emissions related to their CCA and EU ETS sites.

Question 18: Do you agree with the proposal to remove Electricity Generating Credits (EGCs) from the scheme, including the treatment of CHP? If not, please provide your reasoning.

Question 19: Do you agree with the proposal to increase the flexibility to disaggregate undertakings or groups for separate participation in the CRC? If not, please explain your reasoning.

Question 20: Do you agree with the proposed approach to consent for disaggregation? If not, please explain your reasoning.

Question 21: Do you agree with the proposed simplification of the registration process? If not, please explain your reasoning.

Question 22: Do you agree with the proposal to allow undertakings or groups of undertakings to disaggregate on an annual basis? If not, please explain your reasoning

Question 23: Which one of the four proposals for Academies CRC participation will help to incentivise and achieve energy use reduction. Please explain your reasoning.

Question 24a: Do you agree with the proposed definition of Participant Equivalent? If not, please explain your reasoning.

Question 24b: Can you see any unintended consequences as a result of this definition? If yes, please explain your reasoning.

Question 25a: Do you agree with the proposed simplification of designated changes rules? If not, please explain your reasoning.

Question 25b: Do you see any unintended consequences with this proposal? If yes, please explain your reasoning.

Question25c: Do you agree with the approach to the allocation of responsibility for emissions under designated changes? If not, please explain your reasoning.

Question 26a: Do you agree with the proposed simplification of changes dealing with post-qualification changes? If not, please explain your reasoning.

Question 26b: Do you see any unintended consequences with this proposal? If yes, please explain your reasoning.

Question 27: Do you agree with the proposed simplification on notification and registration timing? If not, please explain your reasoning.

Question 28a: Do you agree with the proposal on the treatment of trusts. If not, please provide your reasoning

Question 28b: Government welcomes stakeholder representation on the potential impact of this proposal on their organisation's qualification status for the scheme and resultant emission coverage impacts.

Question 29a: Do you agree with the proposed approach to allowance sales and banking in the second and subsequent phases? If not please explain reasoning

Question 29b: Do you agree with extending the surrender deadline to the end of September from 2013 onwards? If not please explain your reasoning.

Question 29c: Government welcomes stakeholder representation on their administrative costs associated with the compliance sale that would simplify buying CRC allowances.

Question 30:Do you agree with the proposal to remove the requirement to submit two annual reports in respect of the 2013-14 compliance year? If not please explain reasoning.

Question 31: Do you agree with the proposals to reduce the length of time that records are required to be held? If not, please provide your reasoning.

Question 32: Would you be able to report emissions data split by geographical region? If yes, what data would you be willing or able to report?

Question 33: Do you agree with the proposal to move the detailed rules on the nature of the reputational driver, and the metrics used, in the Performance League Table from the scheme legislation into guidance? If not, please provide your reasoning.

Question 34a: Do you agree with the proposal to appoint independent third parties to determine all CRC appeals in England, Wales and Northern Ireland? If not, please provide your reasoning.

Question 34b: Do you consider the rules of the General Regulatory Chamber of the First Tier Tribunal would be suitable for CRC appeals? If not please explain your reasoning.

Question 34c: Do you agree that Scottish Ministers should continue to hear CRC appeals for Scotland?

Question 35: Do you agree with the proposal to amend and update reference and technical errors in the original Order? If not, please provide your reasoning.

Question 36: Do you agree with the approach to bring in the simplifications at the beginning of the second phase of the CRC scheme. If not would you like Government to investigate the possibility of bringing in some or all of the simplifications faster, so they affect the end of the introductory phase? Please explain your reasoning.

Question 37: Government welcomes stakeholder representation on the proportion of their current administrative costs they are still likely to incur post the introduction of the simplification measures detailed in this document. Future administrative costs broken down by one-off, registration, annual report and external costs would be especially welcomed.

Summary of stakeholder responses from the June Next steps document

Between its publication on the 30th of June and the 2nd of September deadline for responses Government received feedback on the Simplifying the CRC Energy Efficiency Scheme: next steps document. DECC received 96 written responses from stakeholders. There were a wide range of views from stakeholder responses although many were positive on our proposals for simplified CRC scheme. Below are summaries of the views offered in those responses broken down by policy area. However please note we may not have captured every individual comment

Summary of stakeholder feedback – Supply rules

Background

Government proposes several simplification measures in order to reduce the complexity and administrative burden associated with determining whether a supply arrangement is in scope of the scheme and the associated CRC responsibility. The high level proposals discussed in the Next Steps document are as follows:

- Exclusion of domestic electricity profile classes 01 and 02 from the scheme, along with potential equivalent measures for domestic gas supplies.
- Inclusion of unmetered supplies provided on a passive pseudo half hourly basis or pseudo non half hourly basis[15].
- Reduction in the number of fuels covered by the scheme from 29 to 4 (electricity, gas, gas oil and kerosene – the latter two where used for heating purposes)
- Removal of **all** energy supplies to CCA facilities and EU ETS installations from the scope of the scheme (including qualification assessment)
- Removal of three CCA exemptions – so that all organisations which qualify on the basis of their non-CCA and non-EU ETS electricity supplies are required to participate.
- Removal of the 90% rule and associated compliance activities (footprint report, residual measurement list, core/residual distinction). 100% reporting of electricity, gas, gas oil and kerosene, along with the commensurate expansion of the supplier's annual energy statement obligation.

Summary of responses

The headline proposals were broadly supported by respondents. Specific points of feedback included:

[15] **Dynamic pseudo Half Hourly** meters allocate the unmetered consumption across half hourly periods by reference to the operation of PECU photocells or actual switching times as reported by a Central Management System. **Passive pseudo Half Hourly** meters allocate the unmetered consumption across half hourly periods by reference to the calculated sunrise/sunset times. **Pseudo Non Half Hourly** meters allocate an estimated annual consumption figure across the half hourly periods using settlement profiles.

- Several respondents suggested using the established boundary of 73,200kWh pa. gas supply to distinguish between domestic and business gas customers for the purposes of excluding the former category from the scheme's supply rules.
- One respondent highlighted that a recent Ofgem ruling on the accounting treatment of unmetered supplies for keeping switchgear dry at distribution substations would disproportionately increase costs for electricity distributors receiving their supplies from third parties relative to vertically integrated companies.
- Several respondents expressed concern that restricting the scheme to four fuels would reduce the scheme's emissions coverage. They also questioned whether this proposal would unintentionally incentivise the use of more carbon-intensive fuels outside the scope of the scheme.
- A small number of respondents commented on the need to include gas oil and kerosene to account for heating arrangements in rural areas and Northern Ireland. However several respondents suggested that CRC supplies should be restricted to electricity and gas for the UK, and gas oil and kerosene only be included for Northern Ireland.
- Several respondents expressed support for a de-minimis approach to the use of gas oil and kerosene supplies, whilst others requested clarification as to the simplified definitions of diesel (gas oil) and kerosene.
- A minority of respondents questioned how gas oil and kerosene supplied 'for heating purposes' would be managed and reported given a single fuel delivery may utilised for several different uses.
- A couple of respondents challenged how the simplification measures interacted with other regulatory mechanisms such as the Renewable Heat Incentive (RHI).
- Several respondents indicated that the removal of the 90% rule would increase their CRC administration and allowance costs as they would be required to report on an increased number of meters/sources – primarily non-core electricity and gas sources, for which they cite reporting is disproportionately burdensome.
- In addition respondents also suggested that any such move to 100% reporting should be accompanied by a relaxation in the current accuracy rules (5% tolerance) in order to recognise the lower quality energy records for such smaller sites.
- Several stakeholders also questioned whether the increase in costs associated with the removal of the 90% rule would outweigh the administrative savings of removing the footprint report.
- A couple of respondents challenged that the use of fuels for fuel efficiency testing and development should be out of scope of the scheme. Several also requested clarification on the treatment of electricity used in electricity generation, whilst a few suggested that non EU ETS electricity generation sites such as nuclear or renewable projects, should be excluded from the scheme.

- One respondent suggested the benefits of on-site generation and usage should be recognised through a lower emissions factor to account for reduced transmission losses.

Summary of stakeholder feedback - Landlord tenant relationships

Background

Government reiterated in the June announcement its intent not to fundamentally review the CRC's landlord/tenant rule. Government maintains the current rule, which places CRC responsibility on a landlord supplying energy to their tenants, is closely aligned with the party most able to improve a tenanted building's energy efficiency. However Government acknowledges this position may not apply where a landlord only provides land, rather than a building, for a tenant's occupancy, and as such proposes to amend the supply criteria to enable landlords to claim unconsumed supply in such circumstances.

Summary of responses

Stakeholder feedback was split on this issue, although a majority of respondents challenged the stated position and its ability to improve energy efficiency in tenanted buildings. Specific points include:

- Several respondents acknowledged landlords' influence on energy efficiency in large multi tenanted buildings where they maintain the central plant.
- A significant number of stakeholders stated that the current position created an uncontrollable CRC liability for landlords, as energy consumption is primarily under the influence of tenants, and suggested that landlords should be able to pass on CRC responsibilities to tenants. Other respondents proposed that landlords should be able to pass the CRC allowance costs, rather than the full compliance responsibilities, on to their tenants, principally on the grounds that the current rules provide insufficient incentives on tenants to improve energy efficiency. It was also suggested that landlords should be able to only pass through the costs of the CRC allowances rather than their associated administration costs.
- A small number of respondents suggested that allowing landlords to pass CRC costs to tenants through the service charge would reduce the incentive on landlords to invest in energy efficiency improvements – a position which could be countered by introducing reasonable endeavour obligations, or only allowing the oncharge of CRC costs where sufficient submetering had been installed to facilitate accurate measurement of energy usage.
- One respondent stated the oncharging of any CRC costs could discriminate against Small and Medium-sized Enterprises (SMEs), as they would incur additional costs despite not being of a sufficient size to qualify for CRC in their own right.

- Several stakeholders proposed that CRC responsibility should be placed on the person in control, which would differentiate between leased areas, cited as the tenants' responsibility, and the common areas/systems, cited as the landlord's liability.
- A couple of respondents suggested that the current rules should be maintained to avoid further complexity
- A sizeable number of respondents requested that Government provide guidance/direction on the treatment of CRC costs in landlord/tenant relationships.
- One respondent requested that meters from unoccupied properties, usually resulting from changeover periods between tenants, should be excluded on the grounds of disproportionate administrative burdens.

Summary of stakeholder feedback - Reducing the overlap between schemes

Background

Government proposes to simplify the relationship between the CRC and other climate-related policies by excluding all energy supplies to CCA facilities and EU ETS installations from the scope of the CRC. This proposal would result in CRC qualification being assessed on the basis of non CCA and EU ETS supplies, thereby facilitating the proposal to remove the three current CCA exemptions.

Summary of responses

Stakeholder feedback was mixed for these headline proposals – broadly welcoming the exclusion of CCA/EU ETS supplies but challenging the removal of the CCA exemptions. Additional comments included:

- A sizeable number of respondents requested clarification as to how the boundaries of such CCA/EU ETS supplies would be determined. Several respondents stated their preference to remove from CRC all the energy supplies to any site with such an EU ETS or CCA designation, irrespective of the designation's boundary.
- A significant number of stakeholders challenged the removal of the CCA exemptions on the grounds of increased administrative burdens, participation levels and complexity, potentially for a relatively small percentage of their total emissions. Several cited the removal of the exemptions as introducing a heavy financial burden on energy intensive industries, potentially resulting in carbon leakage through international relocation.
- Several respondents questioned whether making more companies fall under multiple schemes would in fact be a simplification.
- A few respondents suggested a hybrid approach of excluding CCA/EU ETS sites from the supply definition but retaining the CCA exemptions. A couple proposed expanding the exemptions to organisations with EU ETS emissions above a certain threshold.

- A small number of respondents suggested modifying the current CCA exemptions so that organisations can only claim an exemption if their CCA emissions exceed a certain percentage higher than 25%.
- Many respondents emphasised the importance of having a coherent policy framework across Government's climate and energy policies. In particular, the need for coherence between the CRC and the potential introduction of mandatory company emissions reporting was emphasised. Some respondents noted the need to avoid unnecessary policy overlap.
- A number of respondents suggested that they would like to see the CRC merged with the Climate Change Levy, potentially alongside the introduction of mandatory company emissions reporting.

Summary of stakeholder feedback - Qualification criteria

Background

Government proposes to simplify the qualification criteria by introducing a one-step process focused on electricity supplies through settled half hourly meters. This proposal would simplify the current two stage approach, and thereby reduce complexity and remove the unintended disincentive to install Smart meters whilst facilitating the administrator's audit of registration data. Government also discussed the proposal to lower the qualification threshold to maintain coverage and emissions abatement potential.

Summary of responses

Feedback on this proposal was relatively limited, potentially due to its technical nature. The points raised by respondents were focused on the need to robustly assess the impact of lowering the qualification threshold and highlighting the interaction of this proposal with the proposed changes to the electricity supply market and the settlement regime for profile classes 05 to 08[16]. A couple of respondents also referenced the interaction with the proposed removal of the CCA exemptions.

Summary of stakeholder feedback - Organisational structure

Background

Currently, those in the private sector can only disaggregate when the relevant part would qualify in its own right. In response to previous feedback we have proposed to provide greater flexibility for businesses to disaggregate, whilst maintaining current rules for those participants that are content. This would maintain coverage whilst allowing business to participate in the way that best fits their structure.

[16] http://www.elexon.co.uk/Pages/P272.aspx

Summary of responses

Responses to the "Next Steps" document reaffirmed participants' support for this option. Participants who commented on this were all in favour of the proposal. The 3 main points highlighted were.

- Respondents felt the proposals would allow participation to better reflect business structures and their energy management, thus making the scheme easier to administer and more effective in driving energy efficiency.
- It would strengthen the incentive for subsidiaries who are doing well in energy efficiency to perform well in the league table.
- It would simplify the management of liabilities where there are large and complex legal organisations to disaggregate separate funds and separate portfolio companies for participation in CRC, thus reducing burdens and complexity.

Summary of stakeholder feedback - Allowance sales

Background

The CRC Energy Efficiency Scheme has, as one of its key elements, a requirement to purchase allowances to cover a participant's CRC emissions. This creates a price signal, incentivising investments in energy efficiency improvements. The price of allowances will be set by the Treasury, as part of the budget-setting process.

In our Next Steps document we set out our intention to hold retrospective allowance sales during the introductory phase of the scheme. We also declared an intention to hold two fixed-price sales in each compliance year in the second phase of the scheme – a forecast sale at one price, and a retrospective sale at the end of the year at a higher price. This would take us away from having an emissions cap, although the scheme would still be a trading scheme.

Summary of responses

- Many respondents supported the move away from an emissions cap to two annual allowance sales, with the improved certainty over price that this would bring. They also welcomed the fact that this would remove need to develop auctioning strategies. Some noted that removing the emissions cap might result in reduced uncertainty over delivering the CRC's contribution to carbon budgets.
- Some respondents noted that forecasting allowance needs would be difficult in periods of economic uncertainty, or where the forecast relied on predicting tenants' energy use.
- A number of respondents requested that they be given as much certainty as possible over the future allowance price in the scheme, and also over the banking rules. This would allow stronger business cases to be made, to invest in energy efficiency improvements. Some noted the risk that, if banking is allowed,

participants might buy allowances in bulk at the beginning of the phase, which would reward the cash-rich participants.

- Finally, some respondents noted that, in the first year of forecast sales, if participants bought in the forecast sale then this could create cash-flow issues as the payment would be made around the same time as the previous year's retrospective sale.

Summary of stakeholder feedback - Performance League Table

Background

The Performance League Table (PLT) is designed so that differing types of participants may be compared and that the ability to be read across the PLT for a participants position compared to other participants will have a reputational driver effect.

We had said that the Performance League Table will be retained as the reputational driver for the scheme. However, the detailed rules on the nature of the reputational driver, and the metrics used, will be removed from the legislation and placed in guidance. The reasoning behind this was that it would allow Government to more easily revisit the nature of the reputational element of the scheme in future, in the light of evidence from the operation of the scheme in its early years.

Summary of responses

- A limited number of responses referred to the suggestion of moving the PLT metrics from legislation into guidance, those that did supported the suggestion.
- Of all the responses that were received those which did mention the PLT, these responses ranged from supporting the PLT to objecting to the PLT.
- Those that supported the idea of a PLT said that it would add to the reputational element to those participants which had a public facing message on environment as part of its organisational DNA. And that having a PLT would enable the measuring differing participants against a fixed set of criteria.
- The majority of those that opposed the PLT were split in their responses. These ranged from those that opposed the PLT outright and stated that it should be abolished. That in abolishing the PLT this could instead be done by companies reporting on their own emissions or the emissions reporting be done via the Climate Change Levy (CCL).
- From those that questioned the use of metrics in the PLT there were suggestions that the metrics should be changed as they thought it possible the PLT could be misread by people viewing it. Those responses received that did make suggestions with regards to changing the PLT metrics, these were based on having individual sector specific metrics. But these suggestions did not address the issue of enabling the ability to read across the PLT as a whole.
- Also raised in the responses was the idea of including Display Energy Certificates (DEC) either instead of the PLT, or, as part of the metrics used in the

PLT. The use of DEC's was supported and opposed in equal measure by those that did raise the issue. Support of DECs was mainly sector based, opposition to the use of DEC did so on the grounds possible costs and possible additional complexity.

Summary of stakeholder feedback - Review of the evidence pack.

Background

Currently the scheme requires that participant maintain records of their first footprint report, first annual report and their first position in the performance table for the duration of their participation. For all other annual reports, there is a requirement to keep these for at least 7 years after the end of the phase in which the scheme year in question relates.

Stakeholder feedback had previously indicated that they believed this to be excessive period of time to retain records associated with the CRC and that it could have significant cost impact in data storage terms.

We proposed in the next steps document that records should be kept for at least 6 years..

Summary of Response

- The responses received on this issue were supportive. Also there was support to review the requirements on the evidence pack once the Environment Agency had reported back their findings from the round of auditing on evidence packs as required under the CRC scheme.

Summary of stakeholder feedback - Treatment of trusts

Background

The Next steps document set out our proposals on the treatment of trusts in CRC. We proposed to treat trusts as undertakings for the purposes of CRC which would keep the CRC responsibility of individual trusts separate from one another. We then set out a hierarchical approach to determine where responsibility should lie.

- Where there is a controlling beneficial owner then responsibility would sit with that beneficiary and it would be aggregated into their participants group.
- Where the trust is regulated by the Financial Services Authority (FSA) and has an operator, then CRC responsibility would sit with the operator of the trust
- Where neither of the above cases apply then CRC responsibility would be placed with the trustee but with aggregation with other trusts which the trustee acts for.

Summary of Responses

- Stakeholder responses welcomed our proposals on the treatment of trust particularly the proposals to treat them as undertakings for the purposes of CRC.

- There was a few minor comment suggesting clarity on some of the wording.

Summary of stakeholder feedback - Emission Factors

Background
In the next steps document, we proposed that the CRC scheme would adopt the emission factors used for greenhouse gas reporting purposes in order to create greater alignment between policies.

Summary of Responses
- Stakeholders who commented welcomed aligning the emission factors in CRC with those used for greenhouse gas reporting
- Some stakeholders commented that the emission factors should be published in good time before the start of the compliance year to facilitate participants emissions predictions (and so CRC allowances to purchase/trade)
- Some stakeholders commented that whilst aligning emission factors is a useful first step, further alignment and simplification is needed.

Summary of stakeholder feedback - Review of Academies

Background
Under existing CRC legislation maintained ('state-funded') schools in England are grouped with their funding local authority for the purposes of CRC participation. Similarly, Academies are grouped with the local authority in whose area they reside. As part of Government's CRC simplification process local authorities have raised concerns at the financial recharging process on the grounds that maintained schools are effectively subsidising Academy-related CRC allowances. Local authorities have also stated that they are less able to influence the level of energy use by Academies due to the arms length nature of their relationship. Government proposed four options for stakeholder consideration:

- **Option 1**, status quo, local authorities are grouped with their maintained schools and Academies in their area.
- **Option 2**, sever the link between local authorities their maintained schools and Academies with qualifying schools participating individually in the CRC.
- **Option 3**, sever the link between local authorities and Academies; no change to the treatment of maintained schools. Qualifying Academies participate individually in the CRC.
- **Option 4**, local authorities have the option to disaggregate Academies, with disaggregated Academies participating individually in the CRC.

Summary of responses
- Stakeholders' responses acknowledged the treatment of Academies within the CRC needs to be revised to address the inability of local authorities to influence

Academies energy use. There was also considerable support for strengthening the reasonable assistance duty.

- Several respondents supported the proposal to continue with the status quo, with the caveat of introducing additional mechanisms to allow local authorities to directly recharge maintained schools for allowance costs and Academies for allowance and administration costs.
- The severing of links between schools and local authorities with qualifying schools participating individually in the CRC was not well supported. Stakeholders suggested qualifying schools should be allowed to aggregate with local authorities to reduce administration burden and the Department for Education should introduce alternative measures to reduce energy consumption.
- Relatively few stakeholders supported applying the individual participation approach to Academies only. Those in favour stated it removed the burden on local authorities to collect data and purchase allowances, whilst deductions from the Dedicated Schools Grant would just apply to maintained schools CRC performance.
- There was considerable support from stakeholders to provide local authorities with the option to disaggregate Academies from their CRC estate The disaggregation process needs to be clear and straightforward and there should be no CRC liability for local authorities once disaggregation has taken place. This option may incentivise Academies to participate with local authorities and there should also be the facility for Academies to participate as a group.
- A number of stakeholders suggested an alternative option to the ones outlined in the discussion paper. Local authorities should no longer be responsible for Academies CRC liabilities and this role should be undertaken by a central funding body such as the Young Persons Learning Agency, as this would address the issue of local authorities having no operational control in meeting Academies CRC liabilities. It would maintain emissions coverage and reduce the CRC compliance burden on Academies if they were required to participate individually.

Summary of stakeholder feedback -Transport

Background

In the Next Steps document, we proposed linking the supply definition with that of supply to a site thus excluding supplies made for the purpose of transport. The proposed reduction in the number of fuels covered by the scheme from 29-4 will remove fuels used by off road vehicles previously captured.

Summary of Response

- Very few respondents addressed the treatment of transport consumption under the Scheme.

- A number of other port stakeholders commented that port operations such as cranes, lifting devices, conveyors and vehicles should be fully exempt from scheme as they are essentially transport devices. One respondent also stressed that the inclusion of transport was inconsistent with the original intent of the CRC scheme – that being drive energy efficiency in buildings.
- One respondent expressed concern that the definition of transport was not being revised to exclude conveyor belts.

Summary of stakeholder feedback - Metering

Background

In the Next Steps document, Government indicated that it was considering aligning the scope of both qualification criteria to focus on settled half hourly meters only. Stakeholders had previously expressed strong support for this simplification.

Summary of Response

- Very few respondents addressed the issue of metering in relation to qualification for the Scheme.
- It was suggested that a better outline of the difference between different meters needed to be provided.
- A third supported HHMs for the purposes of improving administration and data quality.
- One public sector participant expressed support for the inclusion of both unmetered electricity supplies and HHMs under the scheme.

Summary of stakeholder feedback - Renewables

Background

In the next steps document we stated that the focus of the scheme would remain on energy efficiency. As such we will not seek to use CRC to incentivise renewables.

Summary of Responses

- There were relatively few comments on renewables, Those who responded all felt the scheme should move its focus from Energy efficiency to also encourage the uptake of renewables.
- Several stated that with the review of FiTs the CRC should now incentivise renewable to offset the loss of this other incentive
- One suggested that removing the Electricity Generating Credits would deliver further simplification to the scheme.

Summary of stakeholder feedback – Franchises

Background

We did not propose and changes to the franchise rules as part of the next steps document.

Summary of Responses

- We received very few responses regarding franchises.
- Several respondents called for the greater clarity on the legal rules around franchises in the scheme. It was a concern that without this clarification as to the sharing of responsibilities Franchisors may face legal challenges from their franchisees regarding the purchase of allowances and could also face difficulties in obtaining the necessary reporting data from their franchisees.
- One trade association was positive that the rules on franchises were remaining unchanged.

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