

Finalising CRC simplification: treatment of renewable energy & the metallurgical and mineralogical sectors

Government Response

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Executive Summary

1. This document represents the Government response to the consultation “*Finalising CRC simplification: treatment of renewable energy & the metallurgical and mineralogical sectors*” which ran from 20 November 2013 to 17 December 2013.
2. The consultation sought views on two proposals:
 - **to incentivise the use of onsite self-supplied renewable electricity within the CRC through a zero rate conversion emissions factor where no ROC or FIT payments are claimed.**
 - **to include a provision to exclude energy supplies used for metallurgical and mineralogical (met/min) processes from the CRC.**
3. In addition, the consultation document proposed amendments to the drafting of the 2013 Order to ensure that the legislation delivers the Government policy intent on:
 - **avoiding the double counting of third party energy supplies under the CRC, Climate Change Agreements (CCA) and EU Emissions Trading System (EU ETS); and**
 - **allowing more flexible and greater organisational disaggregation by CRC participants.**
4. We received a total of 31 responses to the consultation, 23 from CRC participants, including the private and public sectors and 8 from non-CRC participants. As a result of the broadly positive feedback on the proposed amendments, Government intends to implement the proposals as set out in the consultation document. In addition, we have taken this opportunity to make a few technical improvements to the 2013 Order, which we hope will provide clarification for participants and are set out in Annex 1.
5. Together, these changes aim to deliver Government’s policy intent for the CRC on simplification and on promoting the uptake of renewable energy. They will facilitate the effective implementation of the Climate Change Levy (CCL) exemption for met/min processes in order to help protect the competitiveness of UK energy intensive businesses.
6. Government will make and lay an Order before Parliament, the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly via the negative resolution process – with the Order coming into force on 1st April 2014, subject to Parliamentary approval.
7. In terms of the legislative change to reflect existing and on-going policy to avoid double-counting of CCA, CRC and EU ETS energy and emissions, the impact on registration to the next phase of the CRC is set out below at paragraphs 33-35, and in more detail by the joint scheme administrators in their [Regulatory Position Statement](#)¹ published on 23 December 2013. There is no impact on registration as a result of the other changes.

¹ <http://www.environment-agency.gov.uk/business/topics/pollution/146886.aspx>

Introduction

8. 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 a combination of drivers. Further information on the development of the scheme is available at: www.gov.uk/crc-energy-efficiency-scheme.
9. The Government announced its conclusions on the simplification of the CRC it had inherited in December 2012. These changes, enacted in May 2013 through the 2013 Order, delivered significant simplifications and consequent cost savings to CRC participants. In December 2013 Government consulted on proposals to amend the 2013 Order which were set out in the consultation document entitled: “*Finalising CRC simplification: treatment of renewable energy & the metallurgical and mineralogical sectors*”.

Purpose and scope of the consultation

10. The December 2013 consultation document sought stakeholders’ views on two new policy proposals to:
 - Apply a zero rate emissions conversion factor (through changes to the supply rules) to all onsite self-supplied renewable electricity that has not been surrendered to claim ROC or FIT payments.
 - Exclude from the CRC the energy used in met/min processes via a new ‘supply deduction’ whereby the energy used for eligible met/min processes will not be considered a CRC supply.
11. And proposed amendments to CRC regulations to ensure they delivered Government’s simplified CRC policy on:
 - Landlord-tenant situations where the tenant has a CCA facility or EU ETS installation. Here the landlord, who is a CRC participant, should be able to exclude the supplies under a CCA certificate or EU ETS permit to avoid double counting of supplies regulated by more than one scheme; and
 - Providing participants with greater flexibility to disaggregate at any point during a phase and with mutual consent between the highest parent of the subsidiary group and disaggregated participants for the disaggregation.
12. Government received 31 responses to the consultation from a range of stakeholders – business and industry, public sector organisations, environmental organisations, energy suppliers, advisory organisations and other interested parties. Government welcomes these responses and would like to thank the respondents for their time in preparing them.
13. Alongside the proposals in the consultation, Government published an economic assessment of the costs of implementing these proposals. This assessment will be updated following consideration of consultation responses and presented in the Impact Assessment to be published alongside the legislation.

14. In preparation for this consultation, Government took the opportunity to review the 2013 Order and as a result decided to make a small number of technical amendments to clarify the wording of the regulations for participants. These are explained at Annex 1.

Next Steps

15. In light of the broad support for the simplification package Government intends to deliver the proposals in the consultation. Government will therefore make and lay an Order before Parliament, the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly - via the negative resolution process - with the Order coming into force on 1 April 2014.

16. 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

This section takes each consultation question in turn, summarises the responses and sets out the Government intention.

Incentivising renewable self-supplied electricity within the CRC Scheme

Consultation Question

- | | |
|-----------|---|
| 1. | Do you agree with our proposals to deliver the Government’s commitment to incentivise the use of onsite self-supplied renewable electricity within the CRC through a zero rate conversion emissions factor where no ROC or FIT payments are claimed? |
|-----------|---|

Summary of consultation responses and Government response

17. The intention to incentivise self-supplied onsite renewables was supported by 64% of respondents.
18. Several respondents queried why the incentives offered under the Renewable Obligation (RO) and Feed-in Tariff (FIT) schemes would be a barrier to zero-rating all onsite self-supplied electricity from all eligible renewable technologies, and some felt the carbon impact associated with self-generated renewable energy should be recognised by excluding it from the CRC scheme altogether. This highlighted that the CRC is still viewed by some as a carbon reduction rather than energy efficiency scheme. Overall respondents accepted the Government position that removing the requirement for CRC allowances to be purchased for renewable self-supplied energy that could attract a Renewables Obligation Certificates (ROC) or FIT incentive would be double-counting. It would not provide an additional incentive for renewables deployment nor provide value for money. In addition, using an overarching zero rating emissions factor, rather than factors for each technology as some proposed, would minimise reporting burdens, which is in line with the goals of CRC simplification.
19. To further ensure value for money, the proposal does not apply to generating installations which have been financed through public funds, or where electricity from an installation has previously been surrendered to claim ROC or FIT payments. It will therefore not be possible to cease claiming ROCs or FITs in order to benefit from the zero rating in addition to ROCs or FITs received to date.
20. Government will therefore implement the proposal and review its progress in 2016. As noted in the recent CRC [Annual Report Publication](#)², Government will work with the Environment Agency, the Scheme Administrator and stakeholders to determine how the publication can incentivise the uptake of renewables. Views will be sought and considered over the coming months.

² <http://www.environment-agency.gov.uk/business/topics/pollution/146938.aspx>

Excluding energy from metallurgical and mineralogical processes from the CRC

Consultation Question

- | | |
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| 2. | Do you agree with the Government's intention to include a provision to exclude supplies used for metallurgical and mineralogical processes from the CRC? |
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Summary of consultation responses and Government response

21. The majority of respondents (89%) supported and welcomed this proposal, and Government intends to implement the new supply deduction for met/min processes from the start of the next CRC phase in April 2014.
22. One of the key issues raised during the consultation was whether this would impact on the requirement to register for the next phase of the CRC by 31 January 2014. As this will be a new policy coming into force (in April 2014) after the registration deadline, it will not impact on an organisation's requirement to register for the CRC by 31 January 2014, as set out below.
23. The scope of the proposed exclusion from the CRC is intended to mirror the scope of the Climate Change Levy (CCL) exemption for met/min processes, as will be determined by HMRC for the upcoming Finance Bill. The coming into force of CRC met/min policy therefore aims to coincide with the coming into effect of Finance Bill legislation for the CCL exemption for met/min processes (i.e. enacted in July 2014 but effective from 1 April 2014).
24. The new supply deductions will mean that no CRC reporting or allowance purchases, or qualification liabilities in later phases, will be required for eligible met/min supplies. Some respondents sought more clarity on the eligibility for their supply deduction and the scope of the CCL exemption. Eligibility for the supply deduction will be based on the NACE codes published in draft by HMRC in December 2013. It is Government's policy intention to avoid the unintended consequences of energy used for met/min processes falling out of CCL and into CRC, and so the CRC met/min definitions are intended to exactly match the final CCL definitions. Owing to differences in the legislative processes and timetables, this may require further refinements to the CRC legislation.
25. Some respondents raised questions about whether incentives for energy efficiency would remain following implementation of the CCL and corresponding CRC exemptions. Government is clear that a proportionate balance must be struck between regulation and incentives. The CCA and CRC schemes form part of a range of targeted Government policies designed to encourage industrial energy efficiency, including those that act through the carbon price, such as the EU ETS. We are keen to continue to work with energy intensive industries to explore ways in which we might support them to further deliver energy efficiency improvements, particularly in the light of the upcoming Energy Savings Opportunities Scheme (ESOS) and Electricity Demand Reduction policy pilots (EDR).

Economic analysis

Consultation Question

- | | |
|-----------|---|
| 3. | We welcome comments on the economic analysis and costs of implementing proposals on renewables and metallurgical and mineralogical energy processes. |
|-----------|---|

Summary of consultation responses and Government response

26. Government welcomes respondents' comments on the economic analysis and costs of implementing proposals on incentivising renewable self-supplied electricity and excluding met/min processes from the CRC scheme. Respondents' comments mainly related to the overall cost impact of the CRC Scheme. Although some responses questioned the assumptions, no specific data was provided that could be used to update the estimates presented in the consultation document.
27. Some respondents took the opportunity to clarify that there is a broader range of renewable technologies used by their sector than those set out in the assumptions for the economic analysis presented in the consultation document. Government accepts that this is indeed the case, and explored the possible impacts of the full range of eligible technologies used by CRC organisations through sensitivity analysis for the Impact Assessment. This made a negligible difference to the overall impact of the measure, and therefore confirmed the conclusions from the initial assessment were valid.
28. In addition to comments on economic analysis a number of responses suggested that incentives to invest in renewables faced by CRC participants do not go far enough. Government has been constrained in its ambition to incentivise the uptake of renewables under the CRC Scheme by the need to take into account the scope and legal and financial impacts of key DECC policies for promoting renewable energy generation across the wider economy.
29. In relation to the exclusion of met/min supplies, participants asked for a proportionate approach to accounting for energy currently covered by a CCA as a Directly Associated Activity or under the 70:30 rule where CCAs may be terminated as a result of the CCL exemption. Some respondents noted there would be a trade-off between the benefits of the new CRC supply deduction, and some non-excluded energy entering the CRC. Government is considering these issues as part of on-going work. DECC is working closely with HMRC, HMT and BIS to implement the CCL exclusion, managing both the CCA and CRC impacts and further information will be published for CCA participants in due course.
30. Government has considered all these points and does not think they call for a revision of the estimates presented in the consultation document. However, they will be taken into account in setting out the assumptions in the Impact Assessment to be published alongside the final legislation.

Supplies used in a third party CCA facility or EU ETS installation and organisational disaggregation

31. The consultation notified respondents of proposals to amend existing CRC legislation to ensure the regulations gave effective force to CRC policies on third party supplies and organisational disaggregation. It did not seek views on these policies as they were part of the consultation on CRC simplification in 2012. The changes were welcomed, with clarification requested on a few points with respect to organisational disaggregation.
32. The Government can confirm that participants will have the opportunity to disaggregate subsidiaries on an annual basis within a compliance year of the scheme and by mutual consent. An application for registration as a disaggregated undertaking or group of undertakings should be completed and sent to the administrator by the last working day of April, in order to take effect for the upcoming compliance year. The disaggregated entity will participate in their own right for the remaining length of a phase and will be responsible for emissions for the upcoming year, whilst the parent group will be responsible for the emissions of the previous compliance year. 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.

Registration for the next phase of the CRC

33. A number of respondents asked for clarity on the regulatory position applying to landlords who presently qualify for the next phase of the CRC scheme under the drafting of the 2013 Order, but would not qualify if their supplies of electricity or gas to tenants' CCA facilities or EU ETS installations were excluded in line with *existing* Government policy intent, and the proposed amended legislation. The joint scheme administrators published on 23 December 2013 a [Regulatory Position Statement](#)³. This provides guidance on the issue with respect to enforcement action the current registration window, ahead of the CRC legislation coming into effect on 1 April 2014.
34. In summary, according to the Administrator's Statement, if a landlord organisation presently qualifies for the next phase of the scheme, but would not qualify under the proposed amendment to the scheme, the scheme administrators will not take action to enforce the registration requirement before 30 June 2014. Once the change is made to the CRC scheme and if such a landlord organisation still qualifies for the next phase, the scheme administrators will treat them as compliant with their registration obligation provided they receive a valid application for registration by 30 June 2014. An application is considered valid once the online registration has been completed and registration payment received. Further enquiries should be directed to CRCHelp@environment-agency.gov.uk.

³ <http://www.environment-agency.gov.uk/business/topics/pollution/146886.aspx>

35. In terms of the met/min exclusion, as a *new* policy coming into force (in April 2014) after the registration deadline, it will not alter the registration requirements (registration concluded 31 January 2014) or qualification assessment for the next phase of the scheme starting 1 April 2014. This change will however impact reporting and allowance purchase requirements for this next phase – met/min will be excluded supplies under the new supply deduction.
36. From the subsequent phase (commencing 1 April 2019) met/min supplies will also be excluded for qualification assessment.
37. If a CCA is voluntarily terminated during a CRC phase, any energy not covered within the new CRC met/min supply deduction would be in scope for CRC from the date of CCA withdrawal – i.e. the residual 30% under 70/30 rule not considered met/min will need to be reported for the balance of a compliance year.

Annex 1 - Technical amendments

The Government has identified a few additional technical amendments that need to be made to make clearer the policy intent of the wording of the CRC Order 2013. These are:

- The Electricity Act 1989 on defining unmetered supplies does not extend to Northern Ireland and to do so requires a reference to the Electricity (Northern Ireland) Order 1992. A reference to the definition of unmetered supplies in the 1992 Order has been included within Schedule 1, paragraph 1(4)(b) of the CRC 2013 Order to ensure that participants in Northern Ireland report these supplies within the CRC Scheme ;
- deletion of the words *“is supplied to the public body or undertaking in any year in the initial year”* in Schedule 1, paragraph 4(2)(b) to clarify the exclusion from the CRC scheme of self-supplies for the direct purposes of specific ‘licensed activities’ and ‘cross licensed activities’;
- amendment to Schedule 2, paragraph 2 to exclude English local authority maintained schools within the meaning ‘public authority’ within section 3(1)(a) of the Freedom of Information Act 2000 from being subject to the CRC scheme; and
- amendment to clarify when a penalty should arise in providing an annual report. Article 74 in the 2013 Order was drafted to reflect that the deadline for providing an annual report and the deadline for surrendering allowances were the same, i.e. the last working day in July. This is no longer the case because the deadline for surrendering allowances has been extended to the last working day in October. The amendment to Article 74 will provide clarity on when the penalty should arise – i.e. the last working day in October and not the deadline for providing an annual report.

Annex 2 - List of respondents

Blackburn with Darwen Borough Council
Bristol City Council
British Airways
British Ceramic Confederation
British Glass Manufacturers' Confederation
Calderdale Council
CEMEX UK
Committee on Climate Change
EEF/UK Steel
Financial Services Company
Guildford Borough Council
Gypsum Products Development Association
John Lewis Partnerships
Landmark Information Group Limited
Mineral Products Association
Ministry of Justice
Newcastle City Council
RA Shield Holdings Limited
Royal Borough of Kensington and Chelsea
RWE npower Ltd
Schneider Electric
Scotch Whisky Association
Scottish Water

Severn Trent Plc

Standard Chartered Bank

TEAM Energy Auditing Agency Ltd

Thames Water Utilities Ltd

Veolia Environmental Services

Wirral Council

WM Morrison Supermarkets PLC

Yorkshire Water Services

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