

The Climate Change Act 2008

The UK has passed legislation which introduces the world's first long-term, legally-binding framework to tackle the dangers of climate change. The UK is the first country to have this. The Climate Change Bill became law on 26 November 2008. The Act creates a new approach to managing and responding to climate change in the UK by:-

- Setting ambitious legally binding targets
- Taking powers to help meet those targets
- Strengthening the institutional framework
- Enhancing the capability to adapt to the impact of climate change
- Establishing clear and regular accountability to the UK Parliament

The Aim of the Act

1. To improve carbon management, helping the transition towards a low carbon economy in the UK.
2. To demonstrate UK leadership internationally, showing that we are committed to taking our share of responsibility for reducing global emissions in the context of developing negotiations on a post 2012 global agreement at Copenhagen in December this year.

Provisions of the Act

A legally binding target of at least an 80% cut in greenhouse gas emissions by 2050, to be achieved through action in the UK and abroad also a reduction in emissions of at least 34% by 2020.

What it means for businesses

The passing of the Climate Change Act was a significant step in the UK's path to a low carbon future. In agreeing to reduce its carbon emissions by 20% by 2050 compared to 1990 levels the UK is the first government in the world to introduce such targets and as a result of its long term nature, the Act should instil greater confidence for low or zero carbon investments throughout many industry sectors.

The Act comes at a time when greenhouse gases worldwide continue to rise on a year to year figure which is released by the UN's weather agency. CO₂ and N₂O are increasing steadily.

Add to this the current financial climate and a law on omission reductions appears an even bolder move. But will the Act actually make a difference to the UK's efforts to tackle climate change? One of the aspects of the Act is to continuously review by a Climate Change Committee (CCC) that is independent of government. The Committee will perform its review in line with emerging climate science and recommend to the government accordingly on 2050 target. In addition it will advise on 5 yearly carbon budgets to be set by the government. According to the Committee, significant carbon savings could be found in road transport through improved fuel efficiency of new cars and vans over the next 15 years, while agriculture and waste have particularly good scope for reducing non-CO₂ greenhouse gases like methane.

The report particularly focuses on the power sector however, which can apparently achieve 40% emission reduction by 2020 through a combination of wind, nuclear, deployment of carbon capture and storage technology and increase energy efficiency. The report states there appears to be scope for significant energy efficiency improvement at a cost to the economy and to individuals which is low or indeed negative. The Confederation of British Industry suggests in its climate change tracker report that a number of weaknesses surround the government's drive for energy efficiency. These include the long standing lack of clear definition of zero carbon

housing, a problem that remains a year after the government announced its targets of solely building zero carbon homes by 2016. This lack of practical information helps to explain the government's admissions that only 15 homes qualified as zero carbon in the first year of the scheme.

Carbon Reduction Commitment (CRC)

What is CRC

The CRC is a mandatory "Cap and Trade" incentive scheme that is intended to secure significant reductions in emissions of carbon dioxide to enable the UK to meet the ambitious targets set in the Climate Change Act 2008 of an 80% reduction in carbon dioxide emissions as against 1990 levels by the year 2050.

It is predicted that around 5,000 large public and private sector organisations will be required to participate in the CRC and 15,000 other organisations will have reporting obligations and many organisations, including schools and tenants of CRC participants will be indirectly affected because their omissions will be treated as those of a parent organisation.

Allowances

Allowances must be purchased by CRC participants for each ton of CO² deemed to be omitted by it (determined by a set formula to be decided by the Environment Agency). These will normally cost £12.00 per ton of CO² but following the introductory phase 2010 to 2013 will be auctioned. Allowances may also be purchased through the secondary market or the EU emissions trading scheme.

League Table

In each year and in October 2011 the Environment Agency, who administers the CRC, will calculate the participants emissions. It will then publish a performance league table which will set up participants energy useable. The participants will be ranked according

- (c) also, by the end of July, hold and surrender allowances equal to their reported emissions
- (d) receive a revenue recycling payment from the government in the October after they have reported their energy use based on their relative performance in the scheme published in a performance league table. The first phase is an introductory phase which will run from April 2010 to 2013.

What must your Organisation Do and Going Forward

1. Gather information: The Environment Agency, the Administrator for the CRC will be writing to all half hourly billing points in September providing them with qualification packs. You should alert the relevant people to look out for these. All organisations with a half hourly meter (HHM) settled on the half hourly (hh) market will need to collate information on their total half hourly electricity consumption for the baseline year of 2008 together with a list of their half hourly meters, assisted by their electricity supplier to assess whether they qualify for the scheme.

2. Establish whether you are within CRC: Is your organisation participants?

If during the 2008 calendar your organisation satisfied both of the following then it will be "a participant in the CRC".

- (A) The organisation or its subsidiaries had at least one half hourly meter (HHM) settled on the half hourly market; and
- (B) The annual electricity consumption of your organisation (including subsidiaries) were all HHM's with at least 6000mwh (bills likely to have been in the range of £500,000 to £1m). If your organisation only satisfies (A) then it will only be required to make an information disclosure to the Environment Agency: (A) a list of your organisation's HHM's settled on the half-hourly market and; (B) a calculation of how much electricity you consumed through all HHM's.

Your energy supplier should also be able to tell you if you have any HHM settled on the half-hourly market and your electricity consumption through these meters. Failure to provide this information can lead to a fine of £1,000.

3. Does an Exemption Apply? To avoid overlap with emission schemes, the CRC does not target emissions covered by the Climate Change Agreement nor direct emissions covered by the EU Emissions Trading Scheme.

4. Who is Responsible? The basic rule is that any electricity consumption counts as the responsibility of the organisation that holds the contract with the electricity supplier for that supply, whether a public authority, a landlord, a holding company or another organisation to whom responsibility for the emissions of subsidiaries is attributed under the CRC. Although eligibility for the CRC is determined by the electricity consumption, the total emissions for which the participant will be responsible include electricity supply through HHM and gas supplied through AMR's and none daily metered gas for where more than 73,200 kwh pa. Transport emissions are not included.

Register – Provide Information

The first year is the footprint year and begins 1 April 2010. Organisations who qualify must register or make an information disclosure by 30 September 2010. A fine of £5000 plus a daily fine of £500 will be imposed on organisations who fail to meet the deadline.

Purchase Allowances

The start of the second compliance year is 1 April 2011. At this point organisations must buy allowances to cover the total emissions. The introductory phase participants must purchase efficient allowances to cover their actual emissions from April 2010 to March 2011 and therefore cast emissions from April 2011 to March 2012. This double whammy will impact on cash flows and participant organisations must prepare for this. In subsequent compliance years participants will only be required to purchase allowances for their forecast emissions.

Report

Participants must provide the Environment Agency with a footprint report, an annual report by the end of July 2011 which sets out the participant's energy consumption. Once this has been provided participants must surrender their allowances that have been purchased to cover emissions in the compliant year. The third compliance year starts on 1 April 2012.

Complying with ongoing obligations

In addition to the obligations set out the organisation must monitor the emissions throughout the compliance years and implement emissions reduction schemes. Participants must keep a signed statement that CRC records have been kept and comply with their obligations in respect of ensuring that they have sufficient allowances and surrendering sufficient allowances to cover the participant's emissions in its annual report.

Contractual and Subsidiary Relationships

The CRC legal framework does not determine how responsibilities as between CRC participants and those for whose emissions they are responsible are to be allocated. For example, CRC participant's local authorities may be responsible for the emissions from many properties even when they do not have the power to require omission savings to be undertaken. Similarly, landlords may not have the power they require in order to compel tenants to reduce omissions nor tenants the power to require that they benefit from a share of any recycling payments.

Umbrella CRC participants should already be considering these relationships and determining what steps may be appropriate to enable them to protect their interests. In the meantime the British Property Federation has published a guide to the CRC that highlights some of the considerations.