

**BURGES SALMON INFORMATION NOTE****THE CARBON REDUCTION COMMITMENT (CRC) – IS MY ORGANISATION INCLUDED?****June 2009**

The CRC is a mandatory emissions trading scheme that is being introduced for both public and private sector organisations from April 2010 and we believe that this could have significant cost implications for some. All organisations with half hourly metered<sup>1</sup> (HHM) electricity supply will be affected by the scheme. Most reasonable sized office buildings and shopping centres have HHMs, which are required for any organisation with more than 100kW peak load of electricity usage.

There are different three levels of participation in the scheme, dependent on an organisation's 2008 annual electricity usage through HHM, as set out below. The purpose of this note is to help you identify which level of participation will be required for your organisation, so that we can then advise you further. The different levels are as follows:

- Organisations who used under 3,000MWh of electricity through HHM in 2008 will need to provide a list of all HHM for their organisation, any meter identification numbers for those meters, and a statement confirming that the quantity of electricity supplied does not equal or exceed 3,000MWh.
- Organisations who used between 3,000 and 6,000 MWh of HHM electricity in 2008 will need to provide the information outlined above, and will also need to confirm the total quantity of the supply.
- Organisations whose HHM electricity usage for the 2008 calendar year was more than 6,000 MWh will have full participation obligations, including calculating their emissions from static energy use (which includes electricity, gas and other fuels such as coal, diesel and LPG but excludes transport related emissions), fulfilling reporting obligations, purchasing allowances corresponding to their emissions and surrendering the allowances at the end of each scheme year.

For organisations that are likely to have full participation obligations it will be important over the coming months to understand the potential implications of the scheme, budget and make preparations for it, and ensure that systems and processes have been put in place to collate the information required for compliance.

**WHAT IS MY ORGANISATION?**

Ascertaining what constitutes your organisation for CRC purposes, and how your electricity is supplied to you, will help to determine whether your organisation meets the above participation thresholds.

The definition of "organisation" in the current version of the regulations follows a 'top down' approach that means the highest UK parent organisation will have to assume compliance on behalf of the whole group, along with the associated costs and potential civil and criminal liabilities. Organisations that are part of a larger organisational group, even if they have completely unrelated activities, must act together as one entity and there will be joint and several liability. For organisations with overseas parent companies, a UK based member of that organisation must be nominated to fulfil obligations on behalf of the group.

<sup>1</sup> Half hourly meters include supply by settled half hourly meters, supplied by reference to settled half hourly meters and remotely read supplies.

### IS MY ORGANISATION INCLUDED?

Once you have considered what your 'organisation' is for CRC purposes you will need to ascertain the emissions for which your organisation will be responsible. The responsibility for emissions will be assigned to the organisation that is the customer of the electricity supplier – this is usually the organisation who pays the electricity bill.

In relation to tenanted properties, landlords will be responsible for tenant's energy use where the landlord is the customer of the electricity supplier, and will have the tenant's electricity use count towards the eligibility threshold to see whether the landlord organisation qualifies under the CRC.

The following questions help to analyse which electricity use you will need to include to ascertain your organisation's level of participation in the CRC:

No	Question	Next Steps
1	Does the organisation have any HHM (or 70KVA meters in N.Ireland) in the properties it owns, leases or otherwise occupies?	No – No CRC Responsibilities; Yes – Go to Question 2
2	Does the organisation own any properties?	Yes – Go to Question 2 (a); No – Go to Question 3
(a)	Is the organisation the customer to HHM electricity supply contracts for the properties it owns?	Yes – Include energy usage in calculations
(b)	Does the organisation occupy any of the buildings it owns, where it is not the customer to the HHM electricity supply contract?	Yes – Do not include this energy usage in calculations
(c)	Where the organisation has tenants in any of the buildings it owns, are the tenants the customers to the relevant HHM electricity supply contracts?	Yes – Do not include this energy usage in calculations; No – Include this energy usage in calculations
3	Does the organisation lease any properties?	Yes – Go to Question 3 (a); No – Go to Question 4
(a)	Is the organisation the customer to HHM electricity supply contracts for the properties in which it is a tenant?	Yes – Include in calculations
(b)	Does the organisation have sub-tenants in any of the properties in which it is a tenant?	Yes – Go to Question 3(c); No - Go to Question 4
(c)	Is the organisation the customer to the HHM electricity supply contracts where the properties that it leases are subleased?	Yes – Include in calculations; No – Do not include in calculations
4	Does the organisation have any other property interests (such as occupation of buildings under licence) where it is the customer to electricity supply contracts for those properties?	Yes – Include in calculations

In summary, where the organisation is the customer to the relevant HHM electricity supply contracts in the situations outlined above, all of this energy use in the 2008 calendar year will need to be added together to come to the HHM use figure that will determine the organisation's level of participation. If your organisation exceeds the 6,000MWh threshold for full participation it will be important over coming months to take further steps to understand the implications the scheme for your organisation, and to prepare for and participate in the scheme.

### FURTHER INFORMATION

If you would like to receive information on how Burges Salmon could assist you with preparations for the CRC, a more detailed article, updates on the CRC or details of our team's capabilities on the full range of environmental issues, please contact :- Georgie Messent, Partner on +44 (0) 117 902 7732 or georgie.messent@burges-salmon.com, or Lucie Drummond, Solicitor (New Zealand) on +44 (0) 117 307 6906 or lucie.drummond@burges-salmon.com

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