



Amendments to the CRC Energy Efficiency Scheme Order 2010

A consultation response by the British Property Federation (17th December 2010)

BACKGROUND

This response has been produced by the British Property Federation (BPF) in consultation with its membership.

The BPF represents companies owning, managing and investing in property. This includes a broad range of businesses comprising commercial property owners, the financial institutions and pension funds, corporate owners, residential owners, as well as all those professions that support the industry.

STRUCTURE OF THIS SUBMISSION

This is a response to the Consultation on Amendments to the CRC Energy Efficiency Scheme Order 2010¹.

We have responded to each of the consultation questions in turn. In view of the time constraints upon Government concerning the 'enabling' character of the proposals under consideration, we will be responding to Government separately by the end of 2010 with suggestions for further simplification of the Carbon Reduction Commitment Energy Efficiency Scheme (CRCEES) for longer term consideration.

FOR FURTHER INFORMATION AND FOLLOW-UP

We would be delighted to expand upon any aspect of this response and to provide further supporting information. Please contact: Patrick Brown (Assistant Director) British Property Federation, St Albans House, 5th Floor, 57-59 Haymarket, London, SW1Y 4QX Tel: 0207 802 0100 Fax: 0207 834 3442 Email: pbrown@bpf.org.uk

Our response is not confidential.

¹ http://www.decc.gov.uk/en/content/cms/consultations/crc_amendment/crc_amendment.aspx

General Comments

As a leading contributor to the Property Industry Working Party on the Carbon Reduction Commitment, which produced a Guide for Landlords and Tenants² and an industry consultation on standard lease provisions, we are very supportive of the Government's decision to commit to 'radically'³ simplify the Carbon Reduction Commitment Energy Efficiency Scheme (CRCEES).

We have sought to be as supportive as possible in our responses to this consultation, which seeks views, among other issues, on extending the introductory phase to permit the simplification process to be completed. We are in favour of this delay to the start of the capped phase of the Scheme, with the proviso that this simplification process is carried out in an inclusive and transparent fashion in consultation with industry.

As an industry, the property sector offers opportunities for emissions reductions, but the key to unlocking these reductions is to follow the pattern of energy use and control, rather than procurement within rented properties, which make up the majority of the non-domestic built environment. We will be writing to DECC before the end of the year with recommendations as to how the Scheme could make better use of these incentive structures.

QUESTION 1: DO YOU AGREE WITH GOVERNMENT'S PROPOSAL TO EXTEND THE INTRODUCTORY PHASE AND THE ASSOCIATED AMENDMENTS? YES/NO IF NO, PLEASE EXPLAIN WHY.

Yes. On the basis that the extension of the introductory phase and the delay to the second phase is enacted in order to permit industry and Government to consider further simplification of the CRCEES. We understand that these amendments would provide a suitable window in which to consult on CRCEES simplification options and to make any amendments prior to the start of phase two on 1st April 2013.

We will be writing to the Government separately, by the end of the year, with our views on how the CRCEES can be further simplified.

QUESTION 2: DO YOU AGREE WITH THE GOVERNMENT'S PROPOSAL TO REMOVE THE INFORMATION DISCLOSURE REQUIREMENT? YES/NO. IF NO, PLEASE EXPLAIN THE REASONING.

Yes, the BPF agrees with this proposal. However, it will be important to ensure that there is a mechanism to ensure that whenever the CRCEES 'pool' is reviewed there is a mechanism to clearly and consistently assess which organisations are caught by the Scheme. The deletion of Section 62 of the Order appears to leave no mechanism for reappraising which organisations have sufficient emissions responsibility to be caught by the Scheme. We would welcome clarification as to how and at what intervals the Government intends in future to monitor inclusion in the Scheme.

Our response is caveated in that the BPF sees value in carbon disclosure and wider sustainability reporting. The BPF has been keenly involved in transnational and UK-specific initiatives to foster greater consistency and clarity in the way property companies and investors measure and report their sustainability performance. These have included the Green Property Alliance⁴ common sustainability metrics report 'Setting the Ground Rules for Property'⁵ and participation in the Global Reporting Initiative's Construction and Real Estate Sector Supplement⁶ process, which will determine agreed voluntary methods for reporting on the sustainability performance of companies at the corporate level.

² http://www.bpf.org.uk/en/files/bpf_documents/CRC_Guide_2010.pdf

³ http://www.decc.gov.uk/assets/decc/About%20us/better_reg/864-better-reg-summary-responses-lord-marland.pdf

⁴ The BBP, BCO, BCSC, BPF, BRC, CoreNet, IPF, RICS and UK GBC collaborate on sustainability issues as the Green Property Alliance which convened the Industry Working Party

⁵ http://www.bpf.org.uk/en/files/bpf_documents/Common_Metrics_Paper_FINAL.pdf

⁶ <http://www.globalreporting.org/ReportingFramework/SectorSupplements/ConstructionandRealEstate>

Market leaders among our membership have been producing detailed sustainability reports for some time, containing both quantitative and qualitative data. We are keen that this practice is reflected in the wider industry. The two initiatives mentioned above indicate the growing interest which the industry holds in sustainability measurement and reporting, and its desire to produce sophisticated assessments of its impact. Both initiatives seek to tackle the complexities inherent in measuring sustainability performance in rented non-domestic buildings, which arise in particular when seeking to attribute energy and carbon responsibility between landlords and tenants; often the person who buys energy is not the same person who uses or even controls the energy purchased.

Given the looming possibility of mandatory carbon reporting via the Climate Change Act, and the possible resuscitation of dormant discussions concerning imbuing the Operating and Financial Review (OFR) with more quantitative measures of social and environmental performance, we think that the Government's suggestion of withdrawal of the information disclosure requirement is appropriate (subject to clarification of the Government's proposed methodology for periodic assessment of the CRCEES 'pool'). The BPF looks forward to channeling the benefit of its experiences into the policy discussions surrounding the OFR and carbon reporting.

QUESTION 3: DO YOU AGREE WITH THE GOVERNMENT'S PROPOSAL TO AMEND THE LANDLORD/TENANT RULE IN RESPECT OF NORTHERN IRELAND DEPARTMENTS? YES/NO. IF NO, PLEASE EXPLAIN REASONING.

We agree with the Government's proposal to amend the landlord and tenant rule in respect of Northern Ireland Departments. However, we believe that this disapplication could be applied more widely, since split responsibilities for energy procurement, control and use are a widespread feature of commercial property in the UK.

The Government has indicated that it does not intend to revise its approach toward landlord and tenant in other circumstances (paragraph 27 of the Consultation Document) as 'landlords have the greatest ability to influence a building's energy consumption'.

It is misleading to say that landlords have the most influence over the energy consumption within buildings and belies the complexity of patterns of energy use, control and procurement within those buildings. The success or failure of the CRCEES in terms of rented buildings will depend upon finding incentive structures which reach across the landlord and tenant divide to influence both parties to act appropriately in their use of energy.

The BPF is currently in discussions with other Green Property Alliance organisations to determine whether a consensus can be reached concerning:

- simplifying fiscal aspects of the CRCEES
- introducing incentives for both landlords and tenants to behave in an energy efficient manner and in such a way that is pursuant to either party's participation in the CRCEES
- maintaining reputational drivers and instilling corporate social responsibility in companies which use large quantities of energy, rewarding both absolute and relative emissions reductions

Drawing on these discussions, we will be writing to DECC before the end of December 2010 with recommendations for further simplification of the CRCEES.

QUESTION 4: DO YOU AGREE WITH GOVERNMENT'S PROPOSAL TO REDISTRIBUTE THE ADMINISTRATOR'S RESPONSIBILITIES?

Yes. The redistribution of responsibilities is complementary to the roles for which the main and devolved administrators are responsible.

QUESTION 5: DO YOU AGREE WITH GOVERNMENT'S PROPOSAL TO UPDATE THE REFERENCE ERRORS IN THE ORIGINAL ORDER?

Yes, as this constitutes the correction of a number of errata in the current Regulations.

QUESTION 6: DO YOU AGREE WITH GOVERNMENT'S PROPOSAL TO UPDATE THE INTERPRETATION DEFINITIONS?

Yes, as these changes clarify a number of definitions and legislative intent (in particular Article 8).