

2011 No. 234

CLIMATE CHANGE

The CRC Energy Efficiency Scheme (Amendment) Order 2011

<i>Made</i>	- - - -	<i>9th February 2011</i>
<i>Laid before Parliament</i>		<i>16th February 2011</i>
<i>Laid before the Scottish Parliament</i>		<i>16th February 2011</i>
<i>Laid before the National Assembly for Wales</i>		<i>16th February 2011</i>
<i>Laid before the Northern Ireland Assembly</i>		<i>16th February 2011</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

At the Court at Buckingham Palace, the 9th day of February 2011

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Department of the Environment of Northern Ireland have in accordance with section 48 of and paragraph 10 of Schedule 3 to the Climate Change Act 2008^(a)—

- (a) obtained, and taken into account, the advice of the Committee on Climate Change in respect of this Order; and
- (b) consulted such persons likely to be affected by this Order as they considered appropriate,

Her Majesty, in exercise of the powers conferred by sections 44 and 46 of and Schedule 2 and paragraph 9 of Schedule 3 to the Climate Change Act 2008, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the CRC Energy Efficiency Scheme (Amendment) Order 2011 and comes into force on 1st April 2011.

(2) In this Order any reference below to a numbered article or Schedule is a reference to that article of, or Schedule to, the CRC Energy Efficiency Scheme Order 2010^(b).

(a) 2008 c. 27.
(b) S.I. 2010/768.

Amendments to the CRC Energy Efficiency Scheme Order 2010

2. In article 2 (the trading scheme: phases and application), for paragraph (1) substitute—
- “(1) This Order establishes a trading scheme in relation to scheme activities for a trading period of seven phases which comprise—
- (a) a first phase of four years commencing on 1st April 2010;
 - (b) five subsequent phases of six years commencing as shown in the following table—

Second to seventh phases: commencement dates

	<i>Commencement date of phase</i>
Second phase	1st April 2013
Third phase	1st April 2018
Fourth phase	1st April 2023
Fifth phase	1st April 2028
Sixth phase	1st April 2033

- (c) a seventh phase of five years commencing on 1st April 2038.”.

- 3.—(1) Article 3 (interpretation) is amended as follows.

- (2) For the definition of “annual reporting year” substitute—

““annual reporting year” means each year of a phase;”.

- (3) After the definition of “footprint report” insert—

““footprint supplies” has the meaning given by article 41(5);”.

4. In article 9 (the administrator), for the table of provisions substitute the following table—

<i>“Column 1</i>	<i>Column 2</i>
Part 2 except articles 18(1) and 28	Articles 18(1), 28, 39(3), 47(3), 57(4), 64 and 74
Parts 4 to 6 except articles 39(3) and 47(3) Articles 59(2), 68 to 73	Parts 11 to 16
Part 10	”

5. In article 18(1) (determinations by the administrator), for “paragraph (3)” substitute “paragraph (2)”.

- 6.—(1) Article 21 (universities and colleges: groups) is amended as follows.

- (2) In paragraph (1)(b)(ii) for “paragraph (i)” substitute “paragraph (1)(b)(i)”.

- (3) In paragraph (2) for “sub-paragraph (1)” substitute “paragraph (1)(b)”.

7. In article 29(3) (CCA emissions and target periods), for “This Part does” substitute “Articles 32 to 38 do”.

8. In article 41(5)(b)(i) (footprint emissions), for “or” substitute “and”.

- 9.—(1) Article 53(1) (allowances and CRC emissions) is amended as follows.

- (2) In sub-paragraph (a) for “third” substitute “subsequent”.

- (3) In sub-paragraph (b) for “third” substitute “second”.

- (4) Omit “a” after the words “the participant must”.

10. Article 62 (information on half hourly meters and amount of supplies) is revoked.

11. In article 66(1) (information and assistance by franchisees), for “paragraph 10” substitute “paragraph 9”.

- 12.** In article 74(1)(a) (determinations), for “28(1)” substitute “28”.
- 13.** In article 75(2) (achievement tables), for the words from “are” to the end substitute “are the second and subsequent annual reporting years of each phase”.
- 14.** In article 77(6) (performance tables), in the table of weighting percentages for the column heading “Second to seventh phases” substitute “Fourth year: first phase and each year of the second to seventh phases”.
- 15.** In article 78(5) (publication), for sub-paragraph (b) substitute—
“(b) an annual report in respect of the first year of the subsequent phase.”
- 16.** In article 95 (failures in respect of registration), for paragraph (3) substitute—
“(3) The penalties in paragraph (4) apply where—
(a) a public body or undertaking fails to report details of each settled half hourly meter under paragraph 6 of Schedule 5 where an application for registration is required under Part 2 of Schedule 6; or
(b) an undertaking fails to provide the information required under paragraph 3(2)(d) of Part 3 of Schedule 6.”
- 17.** Article 103 (failures to provide information on half hourly meters under article 62) is revoked.
- 18.**—(1) Schedule 1, paragraph 14 (occupation of premises) is amended as follows.
(2) In sub-paragraph (1), for “Sub-paragraph (2) applies” substitute “Subject to sub-paragraph (3), this sub-paragraph applies”.
(3) After sub-paragraph (2) insert—
“(3) Sub-paragraph (1) does not apply where B is a Northern Ireland Department which occupies premises with the permission of A, and A is another Northern Ireland Department.”
- 19.** In Schedule 3, paragraph 12(2) (the Welsh Assembly Government and Welsh Ministers), re-number paragraphs “(i)” and “(ii)” as paragraphs “(a)” and “(b)”.
- 20.**—(1) Schedule 5, paragraph 12(3) (EU ETS and CCA emissions), is amended as follows.
(2) Before paragraph (a) insert—
“(za) where an exemption is claimed under article 35, the emissions required to be reported by the participant under the CCA for the CCA facilities, where those facilities are subject to a CCA target period ending in the qualification year;”
(3) In paragraph (a), before “the emissions required to be reported” insert “where an exemption is claimed under article 36.”
- 21.** In Schedule 6, Part 3, paragraph 5(3) (significant group undertakings transferring between groups), for “paragraphs (3) to (6)” substitute “paragraphs (3) and (4)”.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the CRC Energy Efficiency Scheme Order 2010 (“the Principal Order”) and comes into force on 1st April 2011.

Article 2 amends article 2(1) of the Principal Order by extending the first phase by one year and substituting a new series of phases for the trading scheme in place of the original phases. The phases, other than the first and seventh phases, will be six years and the second phase will commence on 1st April 2013. The seventh phase will be five years so that the scheme ends on 31st March 2046. Each phase will overlap the previous phase by one year instead of two years.

Article 3 amends and adds a number of new definitions to the interpretation provision in the Principal Order.

Article 4 amends article 9(1) of the Principal Order by redistributing the responsibilities for various provisions under the Principal Order between the Environment Agency, the Scottish Environment Protection Agency and the chief inspector.

Article 7 amends article 29(3) of the Principal Order by limiting the exemptions of Part 3 that do not apply to a public body. As a result a public body may claim an electricity generating credit.

Article 9 amends article 53 of the Principal Order as a consequence of extending the first phase by one year and reducing each phase after the first phase from seven years to six years. The overlap between phases is reduced to one year so a participant is required to surrender allowances from the second year of a phase. Article 9 also corrects a reference error in the Principal Order.

Article 10 revokes article 62 of the Principal Order which required those using between 3000 and 6000 MWh to provide certain information to the administrator under the Order.

Articles 13 and 14 amend articles 75(2) and 77(6) of the Principal Order as a consequence of extending the first phase by one year.

Article 15 amends article 78(5) of the Principal Order as annual reports are now required in each year of a phase.

Article 16 amends and clarifies article 95(3) of the Principal Order.

Article 17 removes the penalty contained in article 103 of the Principal Order as the provision to which it relates in the Principal Order (article 62) has been revoked.

Article 18 amends Schedule 1, paragraph 14 to the Principal Order by disapplying the exception to the exemption contained in paragraph 13 of Schedule 1. Where a Northern Ireland Department has unconsumed supply which it passes to another Northern Ireland Department that is occupying premises with its permission that supply is considered to be a supply to the occupying Northern Ireland Department for the purposes of CRC.

Article 20 amends Schedule 5, paragraph 12 of the Principal Order to provide that where an applicant applies for a CCA exemption on registration the applicant can report emissions for a target period ending in the qualification year.

Articles 5, 6, 11, 12, 16, 19 and 21 correct various reference errors in the Principal Order.

An Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector accompanies the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.