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CRC Energy Efficiency Scheme

An Unwelcome Development...

Over the last few months there has been an increasing amount of coverage of the CRC Energy Efficiency Scheme (previously the Carbon Reduction Commitment).

Readers will recall that the Scheme is aimed at high energy users and by a combination of requiring energy consumption and emissions to be recorded and reported upon; by requiring allowances to be purchased and surrendered in respect of the greenhouse gas emissions resulting from that energy usage; and by publication of performance tables, the Government aims to encourage reductions in energy consumption and consequently in emissions. All of this is aimed at assisting the Government in achieving the reduction in greenhouse gas emissions of 80% by 2050 (judged against a 1990 baseline) in accordance with its commitment under the Climate Change Act 2008.

The Scheme has been the subject of much consultation and debate, in particular among those in the property sector where landlords who provide energy to their tenants, even if this is charged back to them, may find themselves having to purchase and surrender allowances for energy consumption which is not within their actual control.

For an organisation (which expression includes groups of organisations) the test for qualification was a spend of approximately £0.5m on electricity in the calendar year 2008. This would bring the organisations into the Scheme which then applies broadly to all fuels.

The Government had always indicated that this Scheme was intended to be revenue neutral - that is to say, with the exception of the administration costs, all monies raised from the purchase of allowances would be 'recycled' to the participants in a manner which rewarded those who improved on their energy efficiency. This at least gave those larger landlords caught by the Scheme some prospect of recouping at least some of the costs involved.

Much of the debate within the property industry has focussed upon how, or indeed whether, landlords can legitimately pass on the costs of registering and administering the scheme as well as the cost of purchasing allowances, to their tenants - where the energy consumption of those tenants falls to the account of the landlord because of the way the Scheme has been drawn up.

Within the detail of the recent Comprehensive Spending Review, the Department for Environment and Climate Change issued a press release that the terms of the Scheme would now be changed such as all revenue generated from the sale of allowances would in fact be retained by the Government, albeit 'to support the public finances (including spending on the environment)'.

On the face of it, this clearly changes the nature of the Scheme significantly. This scheme will, it would appear, become a direct additional cost for participants on energy consumption and yet in many ways the nature of the scheme remains unchanged.

It remains to be seen whether the proposed change to the Scheme is sufficient for at least some element of the costs associated with this scheme to be treated as a 'tax' and if this will facilitate landlords sharing such costs with their tenants, as many landlords hope.

Further, it was open to the Government to address a fundamental concern of the property industry with the Scheme as currently drawn - namely that there is no express provision by which landlords can require their tenants to contribute to these costs nor indeed provide information concerning their energy consumption (both anticipated and actual) to assist the landlord in turn in fulfilling its obligations under the Scheme.

The Government has though just issued a further consultation on certain proposed changes to the Scheme and whilst some of these may well be welcomed it expressly indicates it does not propose to deal with this concern of the property industry.

No doubt the Government will issue further details of how this fundamental shift in the way in which the Scheme is to operate will be implemented once the consultation has concluded and we will in turn provide further information in due course.

As always though, landlords should remember that the Scheme is to operate in phases and whilst those caught by the first phase have already been determined, it is quite open and indeed expected that in later phases the threshold for qualification will be reduced thereby bringing many more landlords within the Scheme.

As an aside it is worth remembering too that the Scheme will in any event have implications for property dealings of all sorts which will vary depending upon whether any of the parties involved are or anticipate becoming participants within the Scheme. What this means is even those not currently within the Scheme will need to develop their understanding of what these may be for their business.



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We hope you find this an informative read, if you require any further information please do not hesitate to contact:

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