EXPLANATORY MEMORANDUM TO

THE CRC ENERGY EFFICIENCY SCHEME (ALLOCATION OF ALLOWANCES FOR PAYMENT) REGULATIONS 2012

SI 2012 No. 1386

1 This explanatory memorandum has been prepared by Her Majesty's Treasury ("HMT") and is laid before the House of Commons by Command of Her Majesty.

2 Purpose of the instrument

2.1 These Regulations exercise new powers to provide for the allocation of allowances under the CRC Energy Efficiency Scheme (the "CRC") in return for payment.

2.2 The Secretary of State for Energy and Climate Change has laid before Parliament the associated CRC Energy Efficiency Scheme Order 2010 SI 768/2010 establishing the CRC under powers in the Climate Change Act 2008.

3 Matters of special interest for the Select Committee on Statutory Instruments

3.1 None.

4 Legislative Context

4.1 Under section 21 of the Finance Act 2008, HMT has power to impose charges by providing, in regulations, for CRC allowances to be allocated in return for payment. No specific undertakings were given to Parliament in relation to regulations during the passage of the Finance Bill 2008.

5 Territorial Extent and Application

5.1 The instrument applies to all of the United Kingdom.

6 European convention on Human Rights

6.1 The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

6.2 In my view the provisions of the CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2012 are compatible with the Convention rights.

7 Policy Background

7.1 These Regulations provide for the allocation of CRC allowances in return for payment during the introductory phase of the CRC established under the CRC Energy Efficiency Scheme Order 2010.

7.2 These Regulations set out provisions for the three-year introductory phase. Further Regulations will be necessary to provide for the allocation of allowances in subsequent phases when the structure of the allowance sales will change.

7.3 Each participant will be required to surrender a number of emissions allowances at the end of each scheme year equal to their total CO_2 emissions. The Government will hold sales of emissions allowances.

7.4 The concept of emissions trading will be new to many organisations qualifying for the scheme. To allow participants to adjust to a trading scheme, and to enable government to establish accurate data on emissions across the target sector, the CRC features a three-year introductory phase.

7.5 This phase will be characterised by retrospective annual sales of allowances. The sales will take place from June till July each year, when organisations will purchase allowances to cover their emissions from the preceding financial year.

8 Consultation outcome

8.1 These Regulations have been published in draft on the CRC webpage on the Department for Energy and Climate Change ("DECC") website.

8.2 Around 30 representations were received. They contributed to amendments to the final Regulations and will be used to inform future Environment Agency ("EA") guidance on the allowance sales.

8.3 HMT has also worked closely with DECC and the EA, as the administrator, in the drafting of these Regulations.

9 Guidance

9.1 Guidance on the CRC in general can be found on the DECC and EA websites. The EA will also be publishing specific guidance on complying with these Regulations.

10 Impact

10.1 These Regulations are covered by the full impact assessment produced in relation to the CRC Energy Efficiency Scheme Order 2010, which contains an assessment of the effect that both these Regulations and that Order, taken together, will have on the costs of business and the voluntary sector. That assessment is available from www.decc.gov.uk and is also annexed to the Explanatory Memorandum to the CRC

Energy Efficiency Scheme Order 2010 which is available alongside the instrument on www.legislation.gov.uk.

11 Regulating small business

11.1 This legislation does not apply to small business.

12 Monitoring and review

12.1 The operation of these Regulations will be monitored and reviewed as part of the operation of the CRC as a whole.

13 Contact

13.1 Imran Shafi at HM Treasury (Tel: 020 7270 4803 or e-mail: imran.shafi@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.