EXPLANATORY MEMORANDUM TO

THE CRC ENERGY EFFICIENCY SCHEME (ALLOCATION OF ALLOWANCES FOR PAYMENT) REGULATIONS 2013

2013 No. 3103

1. This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations revoke and replace the CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2012 [S.I. 2012/1386].

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The CRC Energy Efficiency Scheme Order 2010 (S.I. 2010/768) established an emissions trading scheme in the United Kingdom in respect of greenhouse gases under sections 44 and 46(3) of and Schedule 2 and paragraph 9 of Schedule 3 to the Climate Change Act 2008 (c. 27). It applies to direct and indirect emissions from supplies of electricity, gas and fuel by public bodies and undertakings. The CRC Energy Efficiency Scheme Order 2013 (S.I. 2013/1119) introduced simplifications to the scheme to reduce its complexity and administrative burden.

4.2 The CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2012 (S.I. 2012/1386) provide for the allocation of CRC allowances in return for payment during the introductory phase of the CRC.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

7.1 The CRC is a mandatory UK-wide trading scheme designed to incentivise large public and private sector organisations to invest in energy efficiency.

7.2. Participants in the scheme are required to surrender a number of emissions allowances at the end of each scheme year equal to their total CO_2 emissions. The Government holds sales of emissions allowances each year.

7.3 The CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2013 set out provisions for the sales of emissions allowances during the second phase of the scheme, which begins on 1 April 2014.

7.4 These regulations:

7.4.1 set the timing of requests to be allocated allowances and govern the payment for and issue of allowances;

7.4.2 set the price of allowances (£15.60 in the forecast period and £16.40 in the compliance period), the consequences of late or non-payment and the consequences of a transfer of excess allowances; and

7.4.3 provide for the Environment Agency to charge fees to cover the costs of allocating allowances.

8. Consultation outcome

8.1 These Regulations have been published in draft on the CRC webpage on the www.gov.uk website. No consultation responses were received for these Regulations.

8.2 The CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2012 (S.I. 2012/1386) were publically consulted on in 2012. Around 30 representations were received and these contributed to the final Regulations that governed the first phase of the scheme.

8.3 These Regulations have also been informed by the first allowance sale period in 2012-13 and 2013-14. They reflect feedback from participants in the scheme and the Environment Agency (EA), the administrator of the scheme.

8.4 HMT has worked closely with the Department of Energy and Climate Change and the EA in the drafting of these Regulations.

9. Guidance

9.1 Guidance 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 The CRC Energy Efficiency Scheme (Allocation of Allowances for Payment) Regulations 2013 [S.I. XXXX] are covered by the full impact assessment produced in relation to the CRC Energy Efficiency Scheme Order 2010. That assessment is annexed to the Explanatory Memorandum to the CRC Energy Efficiency Scheme Order 2013 which is available alongside the instrument on www.legislation.gov.uk or from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

11. Regulating small business

11.1 This legislation does not apply to small business.

12. Monitoring & 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 Nico Heslop at HM Treasury (Tel: 0207 270 1029 or email: nico.heslop@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.