

Consultation on greenhouse gas emissions reporting draft regulations for quoted companies

July 2012



Llywodraeth Cymru
Welsh Government



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This document/publication is also available on our website at:

www.defra.gov.uk/consult

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Contents

Part 1: Introduction	1
1. Purpose of this consultation	1
2. Consultation Process.....	1
3. How to contribute	1
4. Confidentiality.....	1
5. Compliance with the Code of Practice on Consultation	1
6. Background	2
Part 2: The Greenhouse Gas Emissions Reporting Draft Regulations	4
7. Regulation 1: Citation, commencement, cessation and.....	4
8. Regulation 2: Interpretation	4
9. Regulation 3: Disclosure of greenhouse gas emissions in a directors' report.....	4
10. Regulation 4: Methodology used to calculate emissions	5
11. Regulation 5: Reporting of emissions from activities subject to other reporting obligations	5
12. Regulation 6: Carbon Intensity Ratio	6
13. Regulation 7: First Reporting Year	6
14. Regulation 8: Review.....	6

Part 1: Introduction

1. Purpose of this consultation

The purpose of this consultation is to seek views on the draft regulations requiring quoted¹ companies to report on their greenhouse gas emissions within the directors' report to meet the Government's climate change objectives.

2. Consultation Process

Geographical scope: This consultation covers the UK.

Duration of the consultation: Twelve weeks

Body responsible: Department for Environment, Food and Rural Affairs

3. How to contribute

The closing date for this consultation is **17 October 2012**. Responses should be sent to the following email address:

Ghgreporting@defra.gov.uk

Or by post to:

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Please contact us if you wish for these documents to be made available in a different format (large print etc.) and we will endeavour to accommodate your request.

4. Confidentiality

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be published in a summary of the responses to this consultation. **If you do not consent to this, you must clearly request that your response be treated as confidential.** Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request. Respondents should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.

5. Compliance with the Code of Practice on Consultation

This consultation complies with HM Government's Code of Practice on Consultation

¹ As defined in Section 385 of the Companies Act 2006

6. Background

On 20 June 2012, the Government announced that a regulation will be introduced requiring reporting of greenhouse gas (GHG) emissions by UK quoted companies. This follows a public consultation last year where the majority supported making GHG emissions reporting mandatory.

For more information, the consultation document and summary of responses can be found here: <http://www.defra.gov.uk/consult/2011/05/11/ghg-emissions> .

Government will review the first two years of reporting by quoted companies in 2015 and then take a further decision in 2016 on whether to extend the reporting requirement to all large companies.

Government has also been looking more widely at the corporate reporting framework. BIS consulted in September 2011 on “*The future of narrative reporting – consulting on a new reporting framework*²” and the Government published its response³ to that consultation in March 2012. The Government response indicates that, given the large degree of support to the BIS proposals on narrative reporting, proposals will be developed to change the structure of reporting to allow companies to produce a high level Strategic Report. BIS are discussing these developments with interested parties and are aiming to publish draft regulation later this year. The draft GHG regulation refers to the “directors’ report”, although this reference may be updated once the BIS proposals are finalised.

Set out in the following pages is the content of the draft GHG reporting regulations and what they will cover. Your views are sought.

Who will be affected by the proposals in this consultation?

All quoted companies as announced by the Government on 20 June 2012. The definition of quoted companies is given in regulation 2.

Enforcement of regulations

The regulations are made under the Companies Act 2006 and enforcement of these provisions will be carried out by the Conduct Committee of the Financial Reporting Council. The Council monitors annual reports and accounts of public and large private companies for compliance with the requirements of the Companies Act 2006, including applicable accounting standards. The Council has a role to enquire into cases where it appears that the relevant disclosures have not been provided.

² <http://www.bis.gov.uk/assets/biscore/business-law/docs/f/11-945-future-of-narrative-reporting-consulting-new-framework.pdf>

³ <http://www.bis.gov.uk/assets/biscore/business-law/docs/f/12-588-future-of-narrative-reporting-government-response.pdf>

Ultimately, the Council is empowered to apply to the court under section 456 of the Companies Act for a declaration that the annual report or accounts of a company do not comply with the requirements of that Act and for an order requiring the directors to prepare a revised report and/or set of accounts. The Council's predecessor body with that same authority, the Financial Reporting Review Panel, also of the Financial Reporting Council, achieved appropriate action by company Boards without ever having to resort to court.

Part 2: The Greenhouse Gas Emissions Reporting Draft Regulations

The requirements of the regulations are set out in the Draft Statutory Instrument (SI), available on the Defra website alongside this consultation document.

7. Regulation 1: Citation, commencement, cessation and

8. Regulation 2: Interpretation

The SI will be made in Parliament by April 2013.

The Government are proposing that the regulations will **come into force** for reporting years ending after 6 April 2013 so that annual reports published after this time must include GHG information. This is in keeping with the Ministerial announcement on 20 June. However, BIS will publish draft regulations to change the narrative reporting framework later this year and are likely to propose that those changes will come into effect for reporting years ending after 1 October 2013. **We would welcome views on whether the regulations should come into effect for reporting years ending after 6 April 2013, or be timed to come into effect at the same time as the BIS regulations, which is likely to be for reporting years ending after 1 October 2013.**

Regulation 1 also sets out that the greenhouse gases that are required to be reported on are carbon dioxide, methane, hydrofluorocarbons, nitrous oxide, perfluorocarbons and sulphur hexafluoride (see section 92 of the Climate Change Act 2008).

Regulation 2 explains that a quoted company has the meaning given to it by section 385(2) of the Companies Act 2006, i.e. a company that is UK incorporated **and** whose equity share capital is officially listed by UKLA⁴; or is officially listed in an EEA State; or is admitted to dealing on either the New York Stock Exchange or the exchange known as Nasdaq. You may wish to check with your finance director if you are unsure whether your company is a quoted company.

9. Regulation 3: Disclosure of greenhouse gas emissions in a directors' report

Regulation 3 outlines what information on emissions directors should report and that a company's annual greenhouse gas emissions must be reported in the directors' report in carbon dioxide equivalent.

In line with the majority of responses to the public consultation, directors will be required to measure, or calculate, and report on greenhouse gas emissions from those activities listed in regulation 3. The intention is that directors should report on their company's direct

⁴ Listed on the Main Market of the London Stock Exchange.

emissions, including fugitive emissions, and indirect emissions that is their scope 1 and 2 emissions⁵.

Directors may wish to refer to the Government's Guidance⁶ for further information on how to measure and report GHG emissions: part 4 provides an explanation on the type of activities which produce direct and indirect emissions, and part 6 explains the information needed to calculate GHG emissions. Your views on how this Guidance could be developed to aid support of companies are welcome.

10. Regulation 4: Methodology used to calculate emissions

This section requires directors to state the methodology used to calculate the emissions.

Defra and the Department of Energy and Climate Change (DECC) produce guidance for companies wishing to measure and report on their emissions and publish annual emissions factors to calculate the relevant data⁷; this is one method which can be used. However, there are other methodologies and standards that companies may already be using, such as the World Resource Institute/World Business Council for Sustainable Development GHG Protocol⁸, the International Organisation for Standardisation (ISO) 14064-1⁹, the Climate Standards Disclosure Board's Climate Change Reporting Framework¹⁰. There are also some sectors which have their own guidance on measuring and reporting on greenhouse gas emissions.

The regulation does not require companies to use the Government guidance but does require that directors are transparent over which methodology has been used.

11. Regulation 5: Reporting of emissions from activities subject to other reporting obligations

In order to reduce regulatory burden this regulation permits the use of data from the schemes listed in regulation 5, namely the Climate Change Agreements, EU ETS and the CRC Energy Efficiency Scheme. If a company takes advantage of this provision it must declare that it has used data from these schemes.

⁵ The definition of scope 1 and scope 2 emissions is set out in the World Resources Institute/World Business Council for Sustainable Development's GHG Protocol. These definitions are also used in the Government's guidance.

⁶ <http://www.defra.gov.uk/environment/business/reporting/pdf/ghg-guidance.pdf>

⁷ <http://www.defra.gov.uk/publications/2012/05/30/pb13773-2012-ghg-conversion/>

⁸ <http://www.wri.org/publication/greenhouse-gas-protocol-corporate-accounting-and-reporting-standard-revised-edition>

⁹ http://www.iso.org/iso/catalogue_detail?csnumber=38381

¹⁰ <http://www.cdsb.net/climate-change-reporting-framework/>

12. Regulation 6: Carbon Intensity Ratio

The majority of respondents to last year's consultation stated that companies should be required to include an intensity ratio of their choice.

The regulation requires that directors include an intensity ratio when reporting on their emissions. You will wish to note that what intensity ratio is used – whether financial or activity – is not specified and this is left to each company to conclude which is of most interest to its stakeholders. Government guidance on how to measure and report emissions provides advice on intensity ratios in part 8 and annex H.

13. Regulation 7: First Reporting Year

The Government are proposing that the first reporting year will be for the company's first financial year ending after 6 April 2013 (but see question under regulation 1). The information from this first reporting year will need to be included in subsequent directors' reports to allow progress in emissions management to be visible.

There is provision in regulation 7(3) made for a company to amend its base year data. Part 9, and annex J, of the government guidance on measuring and reporting provides further details about base years and when base year recalculation might be necessary. Recalculation of a base year can be done to aid appropriate comparisons to be made between different years despite changes in company structure.

Regulation 7 requires directors to report emissions for the company's financial year but also allows flexibility to report company emissions on a different reporting year providing the directors makes this clear as set out in regulation 7(4).

14. Regulation 8: Review

The review period for the regulations is five years. A report of the outcomes will be completed and laid in Parliament; this report will inform the decision whether to extend the regulations to all large companies.