



Mandatory Carbon Reporting comes into force in October 2013

New burden for quoted companies to report emissions...

Starting with company reporting years ending on or after 30 September 2013, quoted companies in the UK will have to report certain greenhouse gas ('GHG') emissions under the Companies Act 2006 (Strategic and Directors' Reports) Regulations 2013 (the Regulations).

This requirement impacts quoted companies incorporated in the UK as well as those with share capital that is:

- officially listed on the main market of the London Stock Exchange; or
- officially listed on an exchange in the European Economic Area; or
- admitted to dealing on either the New York Stock Exchange or NASDAQ.

Ideally, a quoted company should report on emissions corresponding with its financial year. However, if a company chooses to report on a different year then it must state this in the directors' report.

The GHG emissions covered...

Not all emissions need to be reported. The report must state the annual quantity of GHG emissions in tonnes of carbon dioxide equivalent from:

- the combustion of fuel in any premises, machinery or equipment operated, owned or controlled by it;
- the use of any means of transport, machinery or equipment;
- the operation of any facility (this includes mobile and temporary facilities); and
- the purchase of electricity, heat, steam or cooling by the company for its own use.

There is a materiality threshold, which is left to the individual judgment of the company and which should be considered in line with the scheme rules.

The main concepts to consider...

There are certain elements to the monitoring and reporting that should be considered - the first being the **methodology** by which emissions are calculated. A web-based tool has been produced by Defra to assist with calculations in converting activities (such as waste generated and car mileage) into equivalent carbon emissions. However, the requirement to explain quantitative data broadens the report beyond merely disclosing the emissions figures.

Another element to consider is **verification** of the emissions data that is collected under the chosen methodology by an independent company. Independent verification can help companies establish a sufficiently robust report to meet the requirements of the Regulations and can aid in ensuring consistency.

Challenging aspects...

The Regulations require that the emissions data be obtained where it is practical to do so, but where it is not practical to obtain some or all of this information the directors' report must state what information is not included and why. This is called the "comply or explain" requirement in the Regulations. This concept is applied throughout the scheme with some exceptions where an explanation is not a sufficient replacement.

Another complication for companies is determining the scope of their operations. There is a test to determine responsibility set out in the Regulations. A company is responsible for the activities of another entity to the extent it has control over the actions that result in emissions. Guidance issued alongside the draft Regulations does not specify an exact method of how a company's 'responsibility' is to be construed, but does consider the setting of organisational boundaries with control being determined with reference to operational or financial control.

With the exception of the first mandatory reporting year, companies must repeat emissions data disclosed in the previous year alongside information on the present year's emissions to provide a comparison.

How does this fit with other mandatory reporting schemes?

This new mandatory reporting scheme is another mechanism to support the Government's emissions reduction goals. It does in fact have an overlapping aspect with the EU Emissions Trading Scheme as well as the CRC Energy Efficiency Scheme in that a company can use reports and data from these schemes to comply with the Regulations. However, in order to do this the parameters of reporting under the Regulations must be met and where the reporting used for other schemes differs,

additional information must be provided. A full understanding of the requirements of the emissions reduction regimes in the UK is necessary before using a single reporting method across several schemes.

How we can help?

We can assist your organisation with understanding the emissions reduction schemes in the UK and support your compliance team with developing checklists and corporate compliance policies that fit the needs of your business operations.

Contacts

For further information and advice, please contact:



Ross Fairley

Partner

+44 (0)117 902 6351

ross.fairley@burges-salmon.com



Rachel Blackburn

Associate

+44 (0)117 307 6085

rachel.blackburn@burges-salmon.com

Burges Salmon LLP, One Glass Wharf, Bristol BS2 0ZX Tel: +44 (0) 117 939 2000 Fax: +44 (0) 117 902 4400
6 New Street Square, London EC4A 3BF Tel: +44 (0) 20 7685 1200 Fax: +44 (0) 20 7980 4966

www.burges-salmon.com

Burges Salmon LLP is a Limited Liability Partnership registered in England and Wales (LLP number OC307212) and is authorised and regulated by the Solicitors Regulation Authority. A list of members, all of whom are solicitors, may be inspected at our registered office: One Glass Wharf, Bristol BS2 0ZX.

© Burges Salmon LLP 2013. All rights reserved. Extracts may be reproduced with our prior consent, provided that the source is acknowledged. Disclaimer: This briefing gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

Data Protection: Your details are processed and kept securely in accordance with the Data Protection Act 1998. We may use your personal information to send information to you about our products and services, newsletters and legal updates; to invite you to our training seminars and other events; and for analysis including generation of marketing reports. To help us keep our database up to date, please let us know if your contact details change or if you do not want to receive any further marketing material by contacting marketing@burges-salmon.com.