EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES (ENERGY-SAVING PLANT AND MACHINERY) (AMENDMENT) ORDER 2006

2006 NO. 2233

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

These Regulations amend The Capital Allowances (Energy-saving Plant and Machinery) Order 2001. The effect is that from 7th September 2006, the revised lists of qualifying technologies issued by the Secretary of State for the Department of Environment, Food and Rural Affairs on 19th July 2006 have statutory effect for the purposes of 100 per cent enhanced capital allowances (ECA) for energy-saving technology.

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

None.

4. Legislative Background

4.1 Clause 65 and Schedule 17 of Finance Act 2001 introduced the rules for the ECA scheme for energy-saving technology. It amended the Capital Allowances Act 2001 including new sections 45A, 45B and 45C.

4.2 Section 45A(1) provides that expenditure is qualifying spending if it is on energy-saving plant or machinery. Section 45A(2) and (3) define what is meant by energy-saving plant and machinery. It is plant and machinery that is of a description specified by Treasury Order and meeting the energy-saving criteria specified by Treasury Order. Section 45A(4) provides that the Treasury Order can deal with the descriptions and criteria by reference to any technology list published by the Secretary of State for the Department of Environment, Food and Rural Affairs.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

These Regulations are subject to annulment and do not amend primary legislation. Accordingly no statement as to compliance with the Convention rights is required.

7. Policy Background

7.1 Under the Kyoto protocol the UK is committed to reducing greenhouse gas emissions to 12.5 per cent below 1990 levels between 2008 and 2012 helping the EU to meet its target. The UK also has a more demanding domestic target of a 20 per cent reduction in carbon dioxide emissions by 2010. The Government believes that environmental taxes and other economic instruments will continue to be key policy tools for achieving environmental improvements.

7.2 The ECA scheme for designated energy-saving technology is one of the range of measures to encourage the reduction in the UK's carbon emissions. The scheme enables a business to claim accelerated tax relief on its spending on designated energy-saving technology. The cash-flow benefit of accelerated tax relief can encourage businesses to invest in energy-saving equipment that can reduce their energy use, their energy bills and their payments under the Climate Change Levy. The scheme is dynamic with the qualifying technologies being reviewed annually.

7.3 Businesses can claim ECAs on their spending on designated energy-saving technology. The ECA scheme is dynamic with further technologies being added and the detailed energy-saving criteria being reviewed on an annual basis. The current qualifying technologies are published in lists issued by the Secretary of State on 18 July 2005. These lists are given statutory effect by Treasury Order 2005 No. 2424.

7.4 This Treasury Order gives statutory effect for the purposes of ECAs for energy-saving technology, to the revised lists of qualifying technologies issued by the Secretary of State on 19th July 2006.

7.5 The new lists issued on 19th July 2006 update the qualifying criteria for some qualifying technologies and remove two technologies[1] included on the lists issued on 18 July 2005. The lists are available on the website for the energy-saving ECA scheme www.eca.gov.uk.

8. Impact

A Regulatory Impact Assessment has not been issued for this instrument.

9. Contact

Paul Thomas at HM Revenue & Customs (tel: 020 7147 2541; e-mail: paul.thomas@hmrc.gsi.gov.uk) can answer any queries about the instrument.

[1] Thermal screens and electronic drain traps.