EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES (ENERGY-SAVING PLANT AND MACHINERY) (AMENDMENT) ORDER 2009

2009 NO. 1863

1. This explanatory memorandum has been prepared by Her Majesty's Revenue & Customs (HMRC) 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. Purpose of instrument

This Order amends the Capital Allowances (Energy-Saving Plant and Machinery) Order 2001 (S.I. 2001/2541). The effect is that from 4th August 2009, the revised lists of qualifying technologies issued by the Secretary of State for Energy and Climate Change on 6th July 2009 have statutory effect for the purposes of 100 per cent first year capital allowances for expenditure on qualifying energy saving plant and machinery technologies ("the enhanced capital allowances (ECA) scheme for energy-saving technologies").

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

None

4. Legislative Context

4.1 Sections 45A to 45C of the Capital Allowances Act 2001 contain the rules for the ECA scheme for energy-saving technologies.

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 Energy and Climate Change.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy Background

7.1 The ECA scheme for designated energy-saving technologies is one of a 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 qualifying energy-saving technologies. 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 detailed energy saving criteria and qualifying technologies being reviewed annually.

7.2 The current qualifying technologies are published in lists issued by the Secretary of State on 16 July 2008. Those lists are given statutory effect by Treasury Order 2008 No. 1916.

7.3 This Treasury Order gives statutory effect, for the purposes of the ECA scheme for energy-saving technologies, to the revised lists of qualifying technologies issued by the Secretary of State on 6th July 2009.

7.4 The new lists issued on 6th July 2009 update the qualifying criteria for some existing technologies, and add two new technologies: "uninterruptible power supplies", including claim values, and "heating, ventilation and air conditioning equipment". The existing "heating, ventilation and air conditioning zone controls" technology class now becomes a sub-technology of the new "heating, ventilation and air conditioning equipment" technology class.

7.4 Two new sub-technologies are also added "air to water heat pumps" to the "heat pumps" technology class and "close control air conditioning systems" to the new "heating, ventilation and air conditioning equipment" technology class.

7.5 The revised lists are available on the website for the energy-saving ECA scheme at www.eca.gov.uk/etl.

8. Consultation outcome

No specific consultation has taken place. The technologies, and the products included in the qualifying lists, are reviewed every year by the Secretary of State for Energy and Climate Change. This ensures that they are still relevant, and the wording of the qualifying criteria discussed with suppliers to ensure that it is achievable.

9. Guidance

All guidance will be updated as appropriate as part of the normal process of review**.**

10. Impact

An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

11. Regulating small business

This ECA scheme is primarily designed to improve cashflow for businesses that purchase qualifying products. Combined with the £50,000 Annual Investment Allowance that was introduced from April 2008, it should also help reduce the administrative burdens and compliance costs for small businesses.

12. Monitoring and review

The lists of technologies and products that qualify for the scheme are reviewed every year by the Secretary of State for Energy and Climate Change.

13. Contact

Nick Williams at HM Revenue & Customs (tel: 020 7147 2541; e-mail: nicholas.williams@hmrc.gsi.gov.uk) can answer any queries about the instrument.