EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES (ENERGY-SAVING PLANT AND MACHINERY) (AMENDMENT) ORDER 2011

2011 No. 2221

1. This explanatory memorandum has been prepared by 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. Purpose of instrument

This instrument amends the Capital Allowances (Energy-saving Plant and Machinery) Order 2001 (S.I. 2001/2541; "the principal Order"). The effect is that from 1st October 2011, the revised lists of qualifying technologies and products issued by the Secretary of State for Energy and Climate Change on 1st September 2011 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 provisions relating to the ECA scheme for energy-saving technologies.

4.2 Section 45A(1) provides that expenditure is qualifying expenditure 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 can specify 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 this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- ***What is being done and why***

7.1 The ECA scheme for 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 and products are published in lists issued by the Secretary of State on 1st August 2010. These lists are given statutory effect for the purpose of the ECA scheme for energy-saving technologies by S.I. 2010/2286 which amended the principal Order.

7.3 This instrument gives statutory effect, for the purposes of the ECA scheme for energy-saving technologies, to the revised lists of qualifying technologies and products issued by the Secretary of State on 1st September 2011.

7.4 The new lists issued on 1st September 2011 update the qualifying criteria for one existing sub-technology "component based automatic monitoring and targeting equipment", and add one new technology: "high speed hand air dryers". They also incorporate within the scheme new products that have been formally accepted for inclusion during the year.

7.5 The revised lists for the ECA scheme for energy-saving technologies are available at www.businesslink.gov.uk.

8. Consultation outcome

Although no formal consultation has taken place, a series of informal discussions are held annually with industry to establish market trends and developments. 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

10.1 There is a negligible impact on business, charities or voluntary bodies.

10.2 No impact on the public sector is foreseen.

10.3 A Tax Information and Note covering this instrument was published on 23rd March 2011 and is available on the HMRC website at

http://www.hmrc.gov.uk/budget2011/tiin6107.pdf . It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

This ECA scheme for energy-saving technologies is primarily designed to improve the cash flow of those businesses that purchase qualifying products, because it allows the full cost of an investment in designated energy-saving plant and machinery to be written off against the taxable profits of the period in which the investment is made. As such the legislation applies to small businesses. Along with the Annual Investment Allowance, that was introduced from April 2008, this will also help reduce their administrative burdens and compliance costs.

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.