EXPLANATORY MEMORANDUM TO

THE CAPITAL ALLOWANCES (ENVIRONMENTALLY BENEFICIAL PLANT AND MACHINERY) (AMENDMENT) ORDER 2006

2006 NO.2235

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 (Environmentally Beneficial Plant and Machinery) Order 2003. 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 environmentally beneficial technology.

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

None.

4. Legislative Background

4.1 Clause 167 and Schedule 30 of Finance Act 2003 introduced the rules for the ECA scheme for environmentally beneficial technology. It amended the Capital Allowances Act 2001 including new sections 45H, 45I and 45J.

4.2 Section 45H(1) provides that expenditure is qualifying spending if it is on energy-saving plant or machinery. Section 45H(2) and (3) define what is meant by environmentally beneficial plant and machinery. It is plant and machinery that is of a description specified by Treasury Order and meeting the environmentally beneficial criteria specified by Treasury Order. Section 45H(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 The Government is committed to protecting the environment and conserving natural resources whilst continuing to ensure the competitiveness of UK industry. The Government believes that environmental taxes and other economic instruments will continue to be key policy tools for achieving environmental improvements.

7.2 The scheme for 100% first-year enhanced capital allowances (ECA) enables a business to claim accelerated tax relief on its spending on designated water efficient technology. The cash-flow benefit of accelerated tax relief can encourage businesses to invest in technologies that reduce water use and improve water quality. The scheme is dynamic with the qualifying technologies being reviewed annually.

7.3 The current qualifying technologies for the ECA scheme for water efficient technology are published in lists issued by the Secretary of State on 15 July 2005. These lists are given statutory effect by Treasury Order 2005 No. 2423.

7.4 This Treasury Order gives statutory effect for the purposes of ECAs for water efficient, 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 include two additional technologies: small scale slurry and sludge dewatering, efficient industrial washing machines, and three additional sub-technologies retrofit WC flushing devices, and low flow screw-down/ lever taps. The lists are available on the website for the water efficient ECA scheme www.eca-water.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.