

**EXPLANATORY MEMORANDUM TO
THE CAPITAL ALLOWANCES (ENVIRONMENTALLY BENEFICIAL PLANT
AND MACHINERY) (AMENDMENT) ORDER 2005**

2005 No.2423

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 22nd September 2005, the revised lists of qualifying technologies issued by the Secretary of State for the Department of Environment Food and Rural Affairs (Defra) on 15 July 2005 have statutory effect for the purposes of 100 per cent first-year 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 environmentally beneficial plant or machinery. Section 45H(2) and (3) define what is meant by environmentally beneficial plant or machinery. It is plant and machinery that is of a description specified by Treasury Order and meeting the water-efficiency criteria specified by Treasury Order. Section 45H(4) provides that the Treasury can make Orders to promote the use of technologies to remedy or prevent damage to the environment. Section 45H(5) deal with the descriptions and criteria by reference to any technology list published by the Secretary of State.

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 ECA scheme 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 Businesses can claim 100 per cent first-year ECAs on their spending on designated water-efficient technology. The ECA scheme is dynamic with further technologies being added and the detailed water-efficiency criteria being reviewed on an annual basis. The current qualifying technologies are published in lists issued by Defra on 13 July 2004. These lists are given statutory effect from 26 August 2004 by Treasury Order 2004 No. 2094.

7.4 This Treasury Order gives statutory effect for the purposes of 100 per cent first-year enhanced capital allowances (ECA) for water efficient technology, to the revised lists of qualifying technologies issued by the Secretary of State for the Department of Environment Food and Rural Affairs (Defra) on 15 July 2005.

7.5 The new lists issued by Defra on 15 July 2005 include three additional technologies: efficient membrane filtration systems for the treatment of wastewater for recovery and reuse, cleaning in place equipment and efficient showers. 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 prepared 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.