

**EXPLANATORY MEMORANDUM TO**  
**THE CAPITAL ALLOWANCES (ENERGY-SAVING PLANT AND MACHINERY)**  
**(AMENDMENT) ORDER 2019**

**2019 No. 501**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Capital Allowances (Energy-saving Plant and Machinery) Order 2018 (S.I. 2018/268; "the principal Order"). The principal Order provides a scheme for 100% first-year allowances to encourage businesses to invest in energy-saving plant and machinery ("the ECA scheme"). The principal Order also specifies energy-saving plant and machinery eligible for the scheme by reference to the Energy Technology Criteria List and the Energy Technology Product List issued by the Secretary of State for Business, Energy and Industrial Strategy. Revised lists were issued on 26 February 2019 and this instrument adopts the new lists for the purposes of the ECA scheme.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.  
4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 Sections 45A to 45C and Section 180A of the Capital Allowances Act 2001 contain the provisions relating to the ECA scheme.  
6.2 Section 45A(1) provides that expenditure is qualifying expenditure if it is on energy-saving plant or machinery. Section 45A(2) and (3) define energy-saving plant and

machinery. It is plant and machinery that is of a description specified by Treasury order and which meets 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 or product list issued by the Secretary of State.

- 6.3 Section 45B(1) provides that Treasury may, by order, specify that no Section 45A allowance may be made in specific cases unless a relevant certificate of energy efficiency is in force. Section 45B(2) sets out what is meant by a “certificate of energy efficiency”.
- 6.4 Section 45C deals with cases in which the plant and machinery that can qualify for the scheme is part of a larger item of plant and machinery that does not qualify for the allowance. Subsections (1), (2) and (3) limit the expenditure on the larger item plant or machinery that can qualify for the 100% first-year allowance to an amount specified by the Treasury order for the particular component; or if there is more than one component, the total of the amounts specified for each component.
- 6.5 Section 180A of the Act contains the rules which treat plant or machinery installed and operated under energy services agreements as belonging to the energy service provider for the purposes of capital allowances. Section 180A(2) prevents the energy service provider from making a claim under the ECA scheme if the person to whom the energy services are being provided (“the client”) would not have been entitled to claim the allowance if the client had incurred the expenditure. But this does not apply if the plant or machinery is of a class specified by the Treasury.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The ECA scheme is one of a range of measures to encourage reduction in the United Kingdom’s carbon emissions. The scheme enables a business to claim accelerated tax relief on its spending on qualifying energy-saving technologies.
- 7.2 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 energy-saving criteria and qualifying technologies are reviewed annually to ensure investment in the most up-to-date technologies.
- 7.3 The current qualifying technologies and products are published in lists issued by the Secretary of State for Business, Energy and Industrial Strategy on 26 February 2018. These lists are given statutory effect for the purpose of the ECA scheme for energy-saving technologies by the Capital Allowances (Energy-saving Plant and Machinery) Order 2018 (S.I. 2018/268) which amended the principal Order.
- 7.4 This instrument gives effect, for the purposes of the ECA scheme, to the revised lists of qualifying technologies and products dated February 2019 and issued by the Secretary of State on 26 February 2019.
- 7.5 The revised lists for the ECA scheme for energy-saving technologies are available at the energy technology list section of Gov.uk and will be incorporated into <https://www.gov.uk/guidance/energy-technology-list> when the list takes effect.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

9.1 This Order amends the Capital Allowances (Energy-saving Plant and Machinery) Order 2018. The eligible criteria are listed in full, without need to refer to previous lists so no consolidation is necessary.

## **10. Consultation outcome**

10.1 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. This ensures that they remain current, and the wording of the qualifying criteria is discussed with suppliers to ensure that it is practicable.

## **11. Guidance**

11.1 Relevant guidance currently published on <https://www.gov.uk/guidance/energy-technology-list> will be updated in due course as part of the normal process of review.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument is published on <https://www.gov.uk/government/publications/ending-enhanced-capital-allowances-for-energy-and-water-efficient-plant-and-machinery/capital-allowances-ending-enhanced-allowances-for-energy-and-water-efficient-plant-and-machinery>.

12.4 It is not anticipated that there will be significant impact on the above-mentioned sectors due to the substantial increase in the Annual Investment Allowance (AIA) from £200,000 to £1,000,000. The AIA gives 100% allowance on qualifying plant and machinery. For most businesses, and almost all small businesses, the AIA will cover all their capital expenditure, which reduces the need for claims under ECA scheme.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).

13.3 The basis for the final decision on what action to take to assist small businesses is that we expect almost all expenditure incurred by small businesses on plant and machinery to be covered by AIA, and so they will not need to claim under the ECA scheme.

## **14. Monitoring & review**

14.1 The measure will be kept under review through communication with affected taxpayer groups.

14.2 No statutory review clause has been inserted as the first-year allowance for products on the Energy Technology Lists will be removed from April 2020 onwards.

**15. Contact**

15.1 Arun Arul at Her Majesty's Revenue and Customs, telephone: 03000 584 720 or email: [arun.arul@hmrc.gov.uk](mailto:arun.arul@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Michael Crabtree, Deputy Director for Corporation Tax Innovation and Growth, at Her Majesty's Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robert Jenrick MP at Her Majesty's Treasury can confirm that this Explanatory Memorandum meets the required standard.