

EXPLANATORY MEMORANDUM TO
THE FINANCIAL ASSISTANCE FOR ENVIRONMENTAL PURPOSES (ENGLAND
AND WALES) ORDER 2008

2008 No. 3243

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order gives the Secretary of State, subject to Treasury consent, the power to provide financial assistance to or for the purposes of the Zero Carbon Hub Limited (“the Hub”). The Department for Communities and Local Government has established a programme of work in pursuit of the Government’s objectives to improve the energy performance of buildings and in particular for new homes to be zero carbon from 2016 and new non domestic buildings to be zero carbon from 2019. The Government will be launching consultations shortly on the definition of zero carbon and a timetable for achieving zero carbon non domestic buildings. The Hub will be assisting the Government achieve its objectives.

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

3.1 None

4. Legislative Context

4.1 This Order is made in exercise of powers conferred by section 153(4) of the Environmental Protection Act 1990 which allows the Secretary of State to vary section 153(1) by adding to the list set out therein any description of organisation, scheme, programme or international agreement whose purposes relate to the protection, improvement or better understanding of the environment. The Order adds the Hub to the list in section 153(1) thus enabling the Secretary of State, with the consent of the Treasury, to give financial assistance to, or for the purposes of, the Hub.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales only.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State, Iain Wright, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

“In my view the provisions of the Financial Assistance for Environmental Purposes (England and Wales) Order 2008 are compatible with the Convention rights.”

7. Policy background

- *What is being done and why*

7.1 The Government has set a target for all new homes to be zero carbon from 2016 (Building a Greener Future policy statement, CLG, July 2007) (<http://communities.gov.uk/publications/planningandbuilding/building-a-greener>).

The definition of zero carbon set out in the policy statement means that over the course of the year, occupation and use of the home should either not result in the emission of any carbon dioxide, or that carbon dioxide emissions from the use of fossil fuels are balanced by renewable energy produced from renewable energy sources on or near the development. The Government committed to consulting further on the definition of zero carbon in the light of technological developments and viability, and plans to launch that consultation shortly.

7.2 The target was set following a consultation exercise earlier in 2007, and recognises the important role which improving building energy performance standards can play in reducing carbon dioxide emissions (around 27% of emissions arise from the way domestic buildings are heated, lighted and from use of domestic appliances) <http://communities.gov.uk/archived/publications/planningandbuilding/buildinggreener> <http://communities.gov.uk/publications/planningandbuilding/futuretowardszerocarbon>

As far as we are aware, no other country has set a similar target for new homes. A task force has been established of interested stakeholders to identify and promote action to deal with associated issues and barriers.

7.3 The Government has been working with the house building industry and other stakeholders, through the 2016 task force, on a programme to support the delivery of zero carbon homes. This encompasses for example the work on the changes to be made to Part L of the Building Regulations, the accompanying Approved Document and the Standard Assessment Procedure software used to assess compliance with the Building Regulations; the development of supporting planning policies, through the Planning Policy Statement on Planning and Climate Change; exemplar programmes such as the Carbon Challenge; research and development, such as the Technology Strategy Board Low Carbon Buildings Impact programme and projects commissioned by the National House Building Council and others. Further work streams are expected to be established as the programme develops.

7.4 The Government commissioned an independent report into house building delivery last year (the Callcutt Review of House Building Supply, CLG, November 2007) (www.callcuttreview.co.uk/default.jsp). The report endorsed the zero carbon homes programme and made a number of recommendations to strengthen delivery. In particular, it recommended that a dedicated delivery body should be set up to manage the programme. The Callcutt report envisaged this delivery body as a private body, though supported by Government, with a role in identifying key policy and research issues, disseminating research findings, promoting exemplar developments, and marketing and promoting the programme. Ministers accepted this recommendation.

The house building industry has now launched a delivery body, the Hub, which has been constituted as a not for profit company limited by guarantee, with industry associations as shareholders, to fulfil this role. The Hub will act in collaboration with the industry, local authorities, and other bodies with an interest and role to play in the programme.

7.5 The Government also announced in Budget 2008 its ambition to set a similar programme for zero carbon new non domestic buildings and that it would consult later this year on a timetable to achieve this from 2019 (around 18% of emissions come from non domestic buildings). That consultation will be launched alongside the consultation on the definition of zero carbon. The Government expects a similar programme of work as for zero carbon homes would need to be put in place to deliver such a target. The Hub will in the first instance focus its activity on residential buildings, but its remit also covers non domestic buildings.

7.6 The Government considers that it is very important that the house building industry is responsible for delivery of the zero carbon homes target and should set up and own structures put in place to support delivery. The Government does believe, however, that public financial assistance is appropriate for elements of the programme, for example to help with the establishment of the Hub. This is because the industry associations do not have the resources or capacity in themselves to take on the task, certainly in the short term. Also, as the programme relates to a strategic Government objective to reduce carbon dioxide emissions from homes, and there are significant delivery risks, financial support is justified.

7.7 The Government would not envisage fully funding the Hub. Funding will be provided initially to help establish the Hub which it is proposed is done on a match funding basis. Proportionately, the Government is willing to provide half the funds in the first year of the Hub's operation, up to a limit. Funding would be supplied against delivery of certain outputs which will be determined as the delivery programme is developed. Thereafter, the Government may wish to commission the Hub to undertake projects on its behalf, for example research projects. Any such projects will of course be commissioned in line with appropriate public procurement procedures.

- ***Consolidation***

7.8 This is a very minor insertion in section 153(4) of the Environmental Protection Act 1990 and currently there are no proposals to consolidate the Environmental Protection Act 1990.

8. Consultation outcome

8.1 The Hub is a not for profit company set up in response to the recommendation of the independent Callcutt report and following a scoping exercise undertaken by the UK Green Building Council, in consultation with the industry and other stakeholders, and Government. The policy proposals set out in the Building a Greener Future policy statement were subject to public consultation in the first half of 2007 (see

reference above in paragraph 7.2). Although there has not been a specific consultation on setting up a delivery body, the proposal is supported by all sectors of the industry and stakeholders. The Callcutt review (paragraph 7.4), which made the recommendation to set up a programme delivery body involved wide ranging stakeholder consultation exercises and calls for evidence.

9. Guidance

9.1 None

10. Impact

10.1 This Order has no impact on business, charities or voluntary bodies. The Department published a regulatory impact assessment alongside the Building a Greener Future policy statement in July 2007 (<http://www.communities.gov.uk/publications/planningandbuilding/final-regulatory>), and will publish further impact assessments alongside the planned consultations on the definition of zero carbon and timetable for zero carbon new non domestic buildings.

10.2 Any administrative costs associated with making and monitoring grant payments will be *de minimus* and absorbed within existing provision.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Standard terms and conditions for grant payments will apply. These include: the need for statements of grant usage to accompany claims, provisions on monitoring and reporting of the performance of the Hub in delivering the work programme agreed to be funded from grant, requirements to report changes to the work programme. The Department will review the level of payments to the Hub on an annual basis.

13. Contact

Bob Ledsome at the Department for Communities and Local Government Tel: 020 79448916 or e-mail: bob.ledsome@communities.gsi.gov.uk can answer any queries regarding the order.