

EXPLANATORY MEMORANDUM TO
THE CAPITAL ALLOWANCES (DESIGNATED ASSISTED AREAS AND
AMENDMENT) ORDER 2018

2018 No. 485

1. Introduction

- 1.1 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.

2. Purpose of the instrument

- 2.1 This Order formally designates those assisted areas within an enterprise zone ("EZ") in which expenditure incurred on plant and machinery may qualify for 100 per cent first-year allowances, otherwise known as Enhanced Capital Allowance (ECAs).
- 2.2 The Order also replaces Table 1 in Schedule 1 to the Capital Allowances (Designated Assisted Areas) Order 2016 (S.I. 2016/751) to correct errors in that table.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 This Order is made under section 45K(2)(a), (3) and (4) Capital Allowances Act 2001 ("CAA 2001"). This is the fourth Order to be made under these powers. The first order was the Capital Allowances (Designated Assisted Areas) Order 2014 (S.I. 2014/3183). The second order was the Capital Allowances (Designated Assisted Areas) Order 2015 (S.I. 2015/2047). The third was the Capital Allowances (Designated Assisted Areas) Order 2016 (S.I. 2016/751).
- 4.2 Schedule 11 to the Finance Act 2012 introduced new sections 45K to 45N into CAA 2001 and provided for 100 per cent ECAs for companies investing in plant or machinery for use primarily in designated assisted areas within EZs. This Order is required to formally designate those assisted areas in which expenditure may qualify for relief.
- 4.3 Section 45K(4) provides that, where appropriate, an order made under section 45K may have retrospective effect. This Order provides that areas designated by the Schedule to the Order are to be treated as having been so designated on 16th March 2016. The areas designated by the table substituted by Article 3 are to be treated as having been so designated on 18th March 2015 by virtue of Article 1(3) of S.I. 2016/751.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to 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 government announced at Budget 2011 that it would introduce EZs which would feature a number of benefits for business, including simplified planning rules and business rate discounts. The Government also announced it would introduce ECAs for expenditure on plant and machinery in certain designated areas within EZs. These measures were enacted in Finance Act 2012.
- 7.2 100 per cent ECAs are designed to encourage investment by capital intensive companies in designated areas within EZs. Budget 2016 gave all designated areas eight years of ECAs from the date they were designated or treated as designated.
- 7.3 The Order designates the areas listed in the schedule attached to the Order, which were announced at Budget 2016. The Order also corrects errors in the Capital Allowances (Designated Assisted Areas) Order 2016 (“the 2016 Order”) and is being issued free of charge to all known recipients of the 2016 Order. The areas listed in the amended Table 1 in Schedule 1 to the 2016 Order were announced at Budget 2015.
- 7.4 Because ECAs are targeted at certain areas, they are a regional State aid and have been designed to comply with the European Commission’s General Block Exemption Regulation, Commission Regulation (EU) No 651/2014 (previously Commission Regulation (EC) No 800/2008).
- 7.5 In order to identify those areas within the assisted areas that should be included in the scheme, the Treasury wrote to Local Enterprise Partnerships in England (these are voluntary partnerships between local authorities and business) and consulted with the devolved administrations in Northern Ireland and Wales outlining the scheme and the criteria against which applications for inclusion would be considered.
- 7.6 Maps delineating these areas can be found at <https://www.gov.uk/government/publications/enterprise-zones>.

Consolidation

- 7.7 There is no current plan to consolidate the various Treasury Orders that specify the ECAs to which s45 applies.

8. Consultation outcome

- 8.1 The qualifying EZ sites have been designated on merit following a bidding process based on proposals submitted by local enterprise partnerships in England and the devolved administration.

9. Guidance

- 9.1 HMRC will update the enterprise zones guidance on Gov.uk. Details of the Memoranda of Understanding and Maps of the specific sites are available at the following website: <https://www.gov.uk/government/publications/enterprise-zones> and may be inspected at the offices of HM Treasury.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note covering this instrument was published on 16th March 2016 alongside the Budget 2016 and is available on the HMRC website at <https://www.gov.uk/government/publications/extension-of-enhanced-capital-allowances-for-enterprise-zones/extension-of-enhanced-capital-allowances-for-enterprise-zones>. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulation burdens on small businesses as the scheme provides a tax relief.

12. Monitoring & review

- 12.1 This measure will be monitored and assessed alongside other measures in the Government's package for EZs.

13. Contact

- 13.1 Tunde Ojetola at HM Revenue and Customs, telephone: 03000 585 916 or email: tunde.ojetola@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.