

*These notes refer to the Capital Allowances Act 2001
(c.2) which received Royal Assent on 22nd March 2001*

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 2: Plant and machinery allowances

Chapter 3: Qualifying Expenditure

Overview

153. This Chapter supplements the general rules in section 11 with further provisions about qualifying expenditure.
154. [Sections 21 to 25](#) exclude expenditure on the provision of buildings, structures, land and certain other assets from being expenditure on plant or machinery. They define what is and is not a building for this purpose.
155. [Section 26](#) provides for certain costs of demolishing plant or machinery to be treated as expenditure on the provision of plant or machinery.
156. [Sections 27 to 33](#) allow some special types of expenditure to be qualifying expenditure. These are, broadly, expenditure on:
 - thermal insulation of industrial buildings;
 - fire safety if required by a notice under the relevant legislation;
 - safety at sports grounds if required to comply with a certificate under the relevant legislation; and
 - personal security if there is a special threat to an individual’s security arising from their work.
157. [Sections 34 to 38](#) exclude or restrict some special types of expenditure. These are, broadly, expenditure on:
 - accommodation by MPs and some others;
 - plant or machinery for a dwelling-house for certain qualifying activities;
 - plant or machinery by employees which is not necessary for the performance of their duties;
 - plant or machinery if the depreciation is met in full by subsidies; and
 - production animals subject to a “herd basis” election (see Schedule 5 to ICTA).
158. Other provisions in this Part also treat expenditure as being expenditure on plant or machinery. See in particular Chapter 7 (computer software) and Chapter 18 (additional VAT liabilities and rebates).

Section 21: Buildings

159. This section is based on paragraphs 1(1), (2) and 5(1) of Schedule AA1 to CAA 1990. It brings together the material excluding buildings from being plant or machinery.
160. *Subsection (1)* sets out the general rule that buildings are not plant or machinery.
161. *Subsection (2)* is based on paragraph 5(2) of Schedule AA1 to CAA 1990. It provides that references to the provision of a building include the construction or acquisition of a building.
162. *Subsection (3)(a), (b) and (c)* treats assets incorporated in or connected with a building as part of the building and list A provides a list of assets treated as buildings, whether or not they would otherwise be so.
163. *Subsection (4)* provides a cross-reference to the list of expenditure unaffected by this section in section 23.
164. **Chapter 14** provides rules under which allowances can be claimed for fixtures which are assets incorporated in buildings and which in law become part of the building. An asset cannot qualify under Chapter 14 as a fixture unless it is plant or machinery in the first place (see section 172). As the fixture is part of a building, section 25 means that it cannot be plant or machinery unless it comes within the exceptions in section 23.

Section 22: Structures, assets and works

165. This section is based on paragraphs 2 and 5 of Schedule AA1 to CAA 1990. It brings together material excluding structures from the meaning of plant or machinery.
166. *Subsection (1)* sets out the general exclusion of structures, and incorporates list B. The assets in list B are excluded as structures whether or not they are structures in an ordinary sense.
167. *Subsection (2)* incorporates the rule in paragraph 5(1) of Schedule AA1 to CAA 1990 that the cost of construction or acquisition is part of the cost of the structure.
168. *Subsection (3)(a)* is based on paragraph 5(1)(a) and defines “structure”. *Subsection 3(b)* brings in the definition of land from paragraph 5(3). This is needed in subsection (1)(b).

Section 23: Expenditure unaffected by sections 21 and 22

169. This section is based on column 2 of Table 1 in paragraph 1, column 2 of Table 2 in paragraph 2 and paragraph 1(3) of Schedule AA1 together with ESC B50. It also makes two minor changes.
170. The various types of expenditure detailed in this section may be plant or machinery even if they are buildings or structures covered by sections 21 and 22 (which stop buildings and structures being plant).
171. *Subsection (1)* says that sections 21 and 22 do not apply to expenditure in subsection (2).
172. *Subsection (2)* gives a list of other provisions which treat particular items of expenditure as plant.
173. *Subsection (3)* says that the items in list C are unaffected by sections 21 and 22.
174. *Subsection (4)* includes list C. This is made up from column 2 from both Table 1 and Table 2 of Schedule AA1 to CAA 1990. It also includes the items in paragraph 1(3).
175. The merger of the columns involves a minor change. In Schedule AA1 the columns apply differently:
- whether a *building* is plant is unaffected by the Schedule for assets in column 2 of Table 1; and

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- whether a *structure* is plant is unaffected by the Schedule for assets which are within either column 2 of Table 1 or column 2 of Table 2 (paragraph 2(3) of Schedule AA1 provides this rule).
176. Merging the Tables in this Act in principle increases the range of expenditure on buildings which is unaffected by the exclusion of buildings from the definition of plant. See *Change 2* in Annex 1.
177. Item 17 of list C is based on paragraph 5(2) of Schedule AA1 to CAA 1990. It adds expenditure on glasshouses to the list of unaffected expenditure instead of having it as a separate exclusion at the end of the Chapter.
178. *Subsection (5)* incorporates the extended meaning of “caravan” from ESC B50. This allows certain things that might not be thought of as caravans to be included as caravans if they are treated as such by section 29(1) of the Caravan Sites and Control of Development Act 1960 or (in Northern Ireland) section 25(1) of the Caravans Act (Northern Ireland) 1963. See *Change 3* in Annex 1.

Section 24: Interests in land

179. This section is based on paragraph 5 of Schedule AA1 to CAA 1990. It provides that expenditure on the acquisition of an interest in land is not expenditure on plant or machinery.
180. *Subsection (1)* states the exclusion and *subsection (2)* qualifies the meaning of “land”.
181. *Subsection (3)* links the meaning of “interest in land” with that in section 175.

Section 25: Building alterations connected with installation of plant or machinery

182. This section is based on section 66 of CAA 1990. It allows expenditure on alterations to an existing building to qualify as expenditure on plant or machinery if those alterations are incidental to the installation of plant or machinery.

Section 26: Demolition costs

183. This section is based on section 62 of CAA 1990. It also makes a minor change. It provides that if the plant or machinery is replaced, then the net cost of demolition is added to the expenditure incurred on the new plant or machinery. If it is not replaced, then the net cost of demolition is added to the pool of qualifying expenditure for the chargeable period in which the demolition takes place.
184. The minor change is in the circumstances in which the section applies. Section 62 of CAA 1990 applies only if plant or machinery “is in use” for the qualifying activity when demolished. This section provides relief if “the last use” of the plant or machinery was for the qualifying activity. See *Change 4* in Annex 1.
185. The net cost of demolition is the cost less any money received for the remains.

Section 27: Application of Part to thermal insulation, safety measures, etc.

186. This section is based on parts of sections 69 to 71 of CAA 1990. It provides for expenditure of the types defined in sections 28 to 33 to be qualifying expenditure. It does so by treating the expenditure as meeting the general conditions for plant and machinery allowances. Then the subsequent provisions of this Part apply without additional provisions to cater only for these relatively rare types of expenditure.
187. *Subsection (1)(b)* means these provisions do not apply if an allowance under this Part or a deduction in respect of the expenditure could be made. This differs from CAA 1990 in two respects:

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- in section 67 of CAA 1990 there is no such exclusion for thermal insulation; and
 - in sections 69 and 70 of CAA 1990 (fire safety and safety at sports grounds) the exclusion goes wider so as to deny plant and machinery allowances if capital allowances can be claimed under any other Part.
188. These differences are largely due to the way the legislation has been revised over the past 25 years with some consequential changes missed. This Act provides a consistent basis for all these types of expenditure by making minor changes. See *Change 5* in Annex 1.
189. Subsection (1) incorporates the effect of section 161(3) of CAA 1990 in this section. See *Note 74* in Annex 2.

Section 28: Thermal insulation of industrial buildings

190. This section is based on section 67 of CAA 1990. It deals with expenditure incurred on thermal insulation of industrial buildings.

Section 29: Fire safety

191. This section is based mainly on section 69 of CAA 1990. It deals with expenditure on fire safety.
192. *Subsection (4)* uses somewhat different language from CAA 1990. Since this relief was first introduced, the relevant fire safety legislation has been amended. This section adopts the language from the amended legislation. See *Note 10* in Annex 2.
193. *Subsections (5) and (6)* are based on ESC B16 which extends the scope of section 69 to include fire precautions taken under Northern Ireland legislation. See *Change 6* in Annex 1.

Section 30: Safety at designated sports grounds

194. This section is based on section 70 of CAA 1990. It deals with expenditure to meet required safety precautions under the Safety of Sports Grounds Act 1975.

Section 31: Safety at regulated stands at sports grounds

195. This section is based on section 70 of CAA 1990. It deals with safety precautions taken under Part III of the Fire Safety and Safety of Places of Sport Act 1987.

Section 32: Safety at other sports grounds

196. This section is based on section 70 of CAA 1990. It deals with safety precautions taken to comply with the Safety of Sports Grounds Act 1975 if a designation order (under section 1 of that Act) is not made but a local authority certifies that the expenditure would fall within a designation order.

Section 33: Personal security

197. This section is based on sections 71 and 72 of CAA 1990. It deals with expenditure to meet a special threat to a person's physical security.
198. The list of relevant qualifying activities for this purpose reflects the extension of the meaning of "trade, profession or vocation" in section 71 of CAA 1990 by sections 28A, 29 and 161(2A) of CAA 1990. See *Note 11* in Annex 2.

Section 34: Expenditure by MPs and others on accommodation

199. This section is based on section 74 of CAA 1990. It deals with certain expenditure by Members of Parliament (and other similar representatives) on accommodation.

Section 35: Expenditure on plant or machinery for use in dwelling-house not qualifying expenditure in certain cases

200. This section is based on sections 28A and 61(2) of CAA 1990. It prevents expenditure incurred in providing plant or machinery in a dwelling house being qualifying expenditure. It applies to Schedule A businesses, overseas property businesses and special leasing.
201. Section 28A(4) of CAA 1990 provides for apportionment if expenditure is incurred on plant or machinery partly for use in a dwelling-house and partly for other purposes. There is no such rule for section 61 (which deals with activities known in this Act as “special leasing”). But section 79 of CAA 1990 provides an equivalent rule for reducing allowances. That has the same effect. See *Note 12* in Annex 2.

Section 36: Restriction on qualifying expenditure in case of employment or office

202. This section is based on section 27(2) of CAA 1990. It adds the “necessarily” condition to the general conditions for plant and machinery allowances in the case of qualifying activities which are employments and offices. This brings the capital allowances requirements into line with other Schedule E reliefs.

Section 37: Exclusion where sums payable in respect of depreciation

203. This section is based on section 80(1) of CAA 1990. It deals with the general exclusion if sums are received to cover all the depreciation of the plant or machinery.
204. The use of “depreciation” is different from CAA 1990 (which refers instead to “wear and tear”). Depreciation is preferred as more familiar. It is also on the face of it a wider term. But in context it is thought to make no difference to entitlement to allowances. See *Note 13* in Annex 2.

Section 38: Production animals etc.

205. This section is based on section 82(2) of CAA 1990. It stops capital allowances being claimed on animals which are subject to the special rules for production animals in Schedule 5 to ICTA (the “herd basis”).