

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 3: Industrial buildings allowances

Chapter 2: Industrial buildings

Overview

956. This Chapter refines the definition of industrial buildings in section 271(2)(b). So the provisions here determine whether or not a building is an industrial building.
957. [Section 274](#) defines “qualifying trades”. These may be trades or undertakings carried on by way of trade. A building used for the purposes of a qualifying trade is an industrial building. See section 271(1)(b)(i).
958. [Section 275](#) provides that some buildings used for the welfare of workers are industrial buildings when used for the purposes of a qualifying trade.
959. [Section 276](#) deals with the case in which part of the trade or undertaking is qualifying and part is not. It provides that a building is an industrial building only if it is in use for the part which qualifies. It also provides that maintenance or repair is not necessarily a qualifying trade.
960. [Section 277](#) provides that some uses of a building do not constitute use for the purposes of a qualifying trade. The main uses are as houses, shops, showrooms, hotels and offices.
961. [Section 278](#) similarly excludes buildings used by more than one licensee unless all the licensees use the building for qualifying trades.
962. [Section 279](#) defines a “qualifying hotel”. Section 271(1)(b)(ii) means that these are industrial buildings despite the general exclusion of hotels in section 277.
963. [Section 280](#) defines “qualifying sports pavilions”. Section 271(1)(b)(iii) includes these as industrial buildings.
964. [Section 281](#) defines “commercial buildings”. A commercial building is an industrial building if qualifying enterprise zone expenditure was incurred on the building (section 271(1)(b)(iv)). Commercial buildings include offices (no matter how they are used) but exclude dwelling-houses.
965. [Section 282](#) provides that buildings outside the United Kingdom in use for a trade are not industrial buildings unless the profits of the trade are assessable under the rules of Case I of Schedule D.
966. [Section 283](#) provides a *de minimis* rule. It ignores the fact that part of a building is not an industrial building if the expenditure on that part is not more than 25% of the total expenditure on the building.

967. **Section 284** provides that a road on an industrial estate is an industrial building if the buildings on the estate are mainly industrial buildings. For enterprise zones this extends to business parks and the like which comprise mainly commercial buildings.
968. **Section 285** provides that a building which is temporarily not in use is not treated as having ceased altogether to be used. This stops temporary disuse triggering a balancing event. See section 315(1)(d). An industrial building continues to be treated as an industrial building during temporary disuse.

Section 274: Trades and undertakings which are “qualifying trades”

969. This section is based on parts of sections 18(1), (9) and (10) and 21(5AA) of CAA 1990. It defines “qualifying trade”. Use for a qualifying trade is the main way buildings qualify as industrial buildings.
970. *Subsection (1)* sets out in Table A seven kinds of qualifying trades and in Table B ten kinds of undertakings which are qualifying trades when carried on by way of trade. The equivalent list in section 18(1) of CAA 1990 starts with “a trade carried on in a mill, factory or other similar premises”. This Act does not include this. These words add nothing which is not covered by section 18(1)(e), “a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process.” Items 1 and 2 of Table A are derived from this. See *Note 45* in Annex 2.
971. Item 7 of Table A contains a definition of “mineral deposits” derived from section 161(2) of CAA 1990 but omits the examples of geothermal energy. They are not needed. See *Note 46* in Annex 2.
972. Item 7 of Table B deals with tunnels and is derived from section 18(1)(c) of CAA 1990 which is subject to section 18(11) of the same Act. There is no provision equivalent to section 18(11) in this Act. See *Note 78* in Annex 2.
973. *Subsection (2)* gives pointers to special rules which apply only to highway undertakings.

Section 275: Building used for welfare of workers

974. This section is based on part of section 18(1) of CAA 1990. It deals with buildings for the welfare of workers.

Section 276: Parts of trades and undertakings

975. This section is based on section 18(2) and (3) of CAA 1990. It deals with cases in which part of a trade or undertaking is qualifying and part is not.
976. *Subsection (1)* gives the general rule. This is that part of a trade can count as a qualifying trade. *Subsection (2)* supplements this general rule by providing that a building must be in use for the part of a trade which does qualify for it to be an industrial building.
977. *Subsection (3)* excludes from qualifying trades what is, broadly speaking, “in-house” maintenance and repair work in a business which is not a qualifying trade.

Section 277: Exclusion of dwelling-houses, retail shops, showrooms, hotels and offices etc.

978. This section is based on sections 18(4) and (9) and 161(2) of CAA 1990. *Subsection (1)* excludes some types of building from being treated as in use for the purposes of a qualifying trade. Normally they are not industrial buildings.
979. *Subsections (2) to (4)* make an exception to the general rule in subsection (1) for buildings occupied by or in use for the welfare of employees working foreign plantations or mineral deposits.

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

980. *Subsection (5)* makes clear that the *de minimis* rule in section 283 takes precedence over the rule in subsection (1).

Section 278: Building used by more than one licensee

981. This section is based on part of section 18(6) of CAA 1990. It excludes buildings used by more than one licensee unless all the licensees use the building for qualifying trades.
982. There is a minor change. Section 18(6) of CAA 1990 applies only to trades. This means a building might fail to qualify as an industrial building because one licensee is carrying on not a trade but an undertaking by way of trade – despite the fact that such undertakings are “qualifying trades”. This section removes the anomaly. See *Change 32* in Annex 1.

Section 279: Qualifying hotels

983. This section is based on section 19 of CAA 1990. It defines “qualifying hotel”. A qualifying hotel is an industrial building. See section 271(1)(b)(ii).
984. Section 19(1) of CAA 1990 refers to accommodation in “a building or buildings”. This Act refers only to “a building”. But section 6(c) of the Interpretation Act 1978 provides that, unless there is a clear contrary intention, words in the singular include the plural.

Section 280: Qualifying sports pavilions

985. This section is based on section 14 of CAA 1990. It defines a “qualifying sports pavilion”. This is an industrial building. See section 271(1)(b)(iii).

Section 281: Commercial buildings (enterprise zones)

986. This section is based on section 21(5) of CAA 1990. In relation to qualifying enterprise zone expenditure (sections 298 to 301) it defines “commercial building”. These are industrial buildings for enterprise zones. See section 271(1)(b)(iv).

Section 282: Buildings outside the United Kingdom

987. This section is based on section 18(13) and (14) of CAA 1990. It provides that a building outside the UK which is used for the purposes of a qualifying trade only qualifies for allowances if the profits of that trade are assessable under Case I of Schedule D.
988. In CAA 1990 this condition applies explicitly to all buildings other than commercial buildings. This section applies it to all buildings including commercial buildings. But commercial buildings are, by definition, in enterprise zones in the United Kingdom so the section does not apply to them in any event.

Section 283: Non-industrial part of building disregarded

989. This section is based on section 18(7) of CAA 1990. It is a *de minimis* rule. Its effect is that allowances are given on all the qualifying expenditure if 25% or less relates to a part of the building which would not otherwise qualify.
990. *Subsection (1)* refers to section 571. That provides that references to a building include references to part of a building. So parts of a building which are used differently need to be looked at separately to see if they are industrial buildings. *Subsection (2)* gives the *de minimis* rule.

Section 284: Roads on industrial estates etc.

991. This section is based on section 18(8) of CAA 1990. It means that roads are industrial buildings if they are on:
- industrial estates where the buildings are mainly industrial buildings; or

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- business parks in enterprise zones where the buildings are mainly commercial buildings.
992. There is a minor change. In CAA 1990 this provision applies only for buildings used for qualifying trades. It does not cater for estates with undertakings carried on by way of trade or qualifying hotels. Nor does it cater for commercial buildings in enterprise zones which make up a business park or the like. The section extends industrial buildings allowances to roads on such estates. See *Change 33* in Annex 1.

Section 285: Cessation of use and temporary disuse of building

993. This section is based on section 15(1) of CAA 1990. It ignores temporary disuse of a building so there is no balancing event and any writing-down allowances continue to be given. See section 315 for the definition of “balancing event”.
994. [Section 317](#) makes special provision for qualifying hotels which are disused for more than two years.