



Capital Allowances Act 1990

1990 CHAPTER 1

PART I

INDUSTRIAL BUILDINGS AND STRUCTURES

CHAPTER III

PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

18 Definition of “industrial building or structure”

- (1) Subject to the provisions of this section, in this Part “industrial building or structure” means a building or structure in use—
- (a) for the purposes of a trade carried on in a mill, factory or other similar premises; or
 - (b) for the purposes of a transport, dock, inland navigation, water, sewerage, electricity or hydraulic power undertaking; or
 - (c) subject to subsection (11) below, for the purposes of a tunnel undertaking; or
 - (d) subject to subsection (12) below, for the purposes of a bridge undertaking; or
 - (e) for the purposes of a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process; or
 - (f) for the purposes of a trade which consists in the storage—
 - (i) of goods or materials which are to be used in the manufacture of other goods or materials; or
 - (ii) of goods or materials which are to be subjected, in course of a trade, to any process; or
 - (iii) of goods or materials which, having been manufactured or produced or subjected, in the course of a trade, to any process, have not yet been delivered to any purchaser; or
 - (iv) of goods or materials on their arrival by sea or air into any part of the United Kingdom; or

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- (g) for the purposes of a trade which consists in the working of any mine, oil well or other source of mineral deposits, or of a foreign plantation; or
- (h) for the purposes of a trade consisting in all or any of the following activities, that is to say, ploughing or cultivating land (other than land in the occupation of the person carrying on the trade) or doing any other agricultural operation on such land, or threshing the crops of another person; or
- (j) for the purposes of a trade which consists in the catching or taking of fish or shellfish;

and, in particular, the expression “industrial building or structure” includes any building or structure provided by the person carrying on such a trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose.

- (2) The provisions of subsection (1) above shall apply in relation to a part of a trade or undertaking as they apply in relation to a trade or undertaking except that where part only of a trade or undertaking complies with the conditions set out in subsection (1), a building or structure shall not by virtue of this subsection be an industrial building or structure unless it is in use for the purposes of that part of that trade or undertaking.
- (3) The reference in paragraph (e) of subsection (1) above to the subjection of goods or materials to any process shall include a reference to the maintaining or repairing of any goods or materials but, notwithstanding subsection (2) above, paragraph (e) shall not apply to the maintenance or repair by any person of any goods or materials employed by that person in any trade or undertaking unless that trade or undertaking itself falls within any of the paragraphs of subsection (1) (including paragraph (e)).
- (4) Notwithstanding anything in subsections (1) to (3) above, but subject to subsections (5) and (7) below, “industrial building or structure” does not include any building or structure in use as, or as part of, a dwelling-house, retail shop, showroom, hotel or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, showroom, hotel or office.
- (5) Subsection (4) above shall not apply to, or to part of, a building or structure which was constructed—
 - (a) for occupation by, or for the welfare of, persons employed at, or in connection with the working of, a mine, oil well or other source of mineral deposits, or
 - (b) for occupation by, or for the welfare of, persons employed on, or in connection with the growing or harvesting of crops on, a foreign plantation,
 if the building or structure is likely to have little or no value to the person carrying on the trade when the mine, oil well or other source, or the plantation, is no longer worked, or will cease to belong to such person on the coming to an end of a foreign concession under which the mine, oil well or other source, or the plantation, is worked.
- (6) Where a building or structure is used by more than one licensee of the same person, that building or structure shall not be an industrial building or structure unless each of the licensees uses the building or structure or that part of it to which his licence relates for the purposes of a trade which falls within subsection (1) above.

This subsection does not apply in any case where the licence in question was granted before 10th March 1982.

- (7) Where part of the whole of a building or structure is, and part of it is not, an industrial building or structure, and the capital expenditure which has been incurred on the construction of the second mentioned part is not more than one-quarter of the total

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capital expenditure which has been incurred on the whole building or structure, the whole building or structure and every part of it shall be treated as an industrial building or structure.

In relation to capital expenditure which, disregarding section 1(10), was incurred before 16th March 1983, other than expenditure which by virtue of section 10(1) was deemed to have been incurred after that date, this subsection shall have effect with the substitution of “one-tenth” for “one-quarter”.

- (8) A road on an industrial estate shall be treated as used for the purposes of a trade which falls within subsection (1) above if the buildings and structures on the estate are used wholly or mainly for such purposes.

This subsection shall have effect in relation to any chargeable period or its basis period ending on or after 27th July 1989.

- (9) In this section—

“crops” includes any form of vegetable produce and “harvesting” includes the collection thereof, however effected;

“dock” includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and “dock undertaking” shall be construed accordingly;

“electricity undertaking” means an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy;

“foreign plantation” means, subject to subsection (10) below, any land outside the United Kingdom used for the growing and harvesting of crops;

“hydraulic power undertaking” means an undertaking for the supply of hydraulic power;

“retail shop” includes any premises of a similar character where retail trade or business (including repair work) is carried on;

“sewerage undertaking” means an undertaking for the provision of sewerage services within the meaning of the Water Act 1989;

“undertaking” does not include an undertaking not carried on by way of trade;

“water undertaking” means an undertaking for the supply of water for public consumption.

- (10) In this section the expression “foreign plantation” shall (without prejudice to the generality of the definition in subsection (9) above) be extended so as to include any land outside the United Kingdom used for husbandry or forestry, and the reference in subsection (5) above to the growing and harvesting of crops shall be correspondingly extended.

- (11) Paragraph (c) of subsection (1) above shall not affect any allowance or charge which would have been made under this Act, disregarding Parts III, IV and VII, if this Act had been enacted without that paragraph and if section 7(1)(c) of the 1968 Act and section 25 of the Finance Act 1952 (which were the corresponding provisions prior to the passing of this Act) had not been passed, and where by virtue of paragraph (c) a balancing charge is made on a person in respect of any expenditure, the amount on which it is made shall not exceed the amount of the allowances made to him in respect of that expenditure by virtue of that paragraph (and those prior provisions).

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- (12) Subsection (1)(d) above shall have effect only in relation to expenditure which is to be treated for the purposes of this Part as incurred after the end of the year 1956-57.
- (13) For the purposes of this Part references to use as an industrial building or structure do not apply, in the case of a building or structure outside the United Kingdom, to use for the purposes of a trade at a time when the profits or gains of the trade are not assessable in accordance with the rules applicable to Case I of Schedule D.
- (14) Subsection (13) shall apply in relation to qualifying hotels to which this Part applies by virtue of section 7, and subsection (7) shall apply in relation to any qualifying hotel and also in relation to commercial buildings and structures but, subject to that, none of the provisions of this section shall apply in relation to any qualifying hotel or commercial building or structure.