

# CAPITAL ALLOWANCES ACT 2001

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Glossary*

#### **Part 10: Assured tenancy allowances**

##### **Overview**

1754. This Part provides for assured tenancy allowances. These can be writing-down allowances or balancing allowances. Balancing charges can recover “excessive allowances”.
1755. Allowances are only available in relation to expenditure incurred after 9 March 1982 and before 1 April 1992, on dwelling-houses let on assured tenancies.
1756. [Chapter 1](#) provides that both qualifying expenditure on a building and the existence of a qualifying dwelling-house are needed for allowances to be given. It sets out some conditions relating to when a building is a qualifying dwelling-house – further conditions are in [Chapter 4](#). The Chapter also sets time limits on the qualifying expenditure that is eligible for allowances – further material on qualifying expenditure is in [Chapter 3](#). The meaning of “approved body” is given. Expenditure attributable to land (rather than a building) cannot be construction expenditure. The treatment of expenditure on “capital repairs” is set out.
1757. [Chapter 2](#) deals, in relation to construction expenditure, with the relevant interest in the building and the relevant interest in a dwelling-house comprised in the building. A person must have the relevant interest in a dwelling-house in order to claim allowances on qualifying expenditure.
1758. [Chapter 3](#) deals, in relation to construction expenditure, with qualifying expenditure. Allowances can only be claimed if there is qualifying expenditure. Qualifying expenditure may not exist and it need not be the same as construction expenditure.
1759. [Chapter 4](#) deals with some requirements for a dwelling-house to be a qualifying dwelling-house. Allowances are only given in relation to a qualifying dwelling-house. If a dwelling-house ceases to be a qualifying dwelling-house, otherwise than on the sale of the relevant interest, there is a deemed market-value sale of the relevant interest – which may result in appropriate balancing adjustments being made.
1760. [Chapter 5](#) sets out the conditions to be satisfied for a person to get writing-down allowances. Only persons who are or have been approved bodies can have writing-down allowances for a chargeable period and then only if:
- that person has the relevant interest in a dwelling-house ([Chapter 2](#));
  - there is qualifying expenditure in relation to that dwelling-house ([Chapters 1 and 3](#)); and

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

- at the end of the chargeable period the dwelling-house is a qualifying dwelling-house (Chapters 1 and 4).

The Chapter also gives the calculation of writing-down allowances and the meaning of “qualifying expenditure attributable to a dwelling-house”.

1761. **Chapter 6** deals with balancing adjustments that can occur up to 25 years after the dwelling-house is first used. These balancing adjustments are either balancing allowances or balancing charges and are made to or on the person entitled to the relevant interest immediately before a balancing event. The Chapter deals with balancing events and the calculation of balancing adjustments.
1762. **Chapter 7** sets out the calculation of the residue of qualifying expenditure appropriate to a dwelling-house. The concept of the residue is important as an allowance is limited to the residue of qualifying expenditure immediately before the allowance is made. The residue is also used in other Chapters in calculating the rate of writing-down allowances following transfers of the relevant interest and in the calculation of balancing adjustments.
1763. **Chapter 8** explains how allowances and charges under this Part are made and contains supplementary material.

## **History**

1764. A scheme of capital allowances was introduced in FA 1982 for expenditure on the construction of properties for letting on assured tenancies under the Housing Act 1980. Under that Act bodies approved by the Secretary of State could let property at freely-negotiated rents outside the provisions of the Rent Acts provided that certain conditions were met. The intention of the new allowance was to encourage the construction of new properties for letting to individuals by private bodies and to stimulate the construction industry. The legislation was based broadly on that for industrial buildings allowances with initial allowances at 75% and writing-down allowances at 4%. Initial allowances were withdrawn by FA 1984 over a period ending on 31 March 1986.
1765. Assured tenancies were introduced in the Housing Act 1980 for approved bodies. There was nothing to prevent an unincorporated body of persons, such as a partnership, from applying and approval was not refused merely on the grounds of non-corporate status. But the capital allowances were intended to be available only to companies so the definition of “qualifying dwelling-house” was amended with effect from 5 May 1983 to exclude landlords other than companies.
1766. The allowances as introduced were limited to qualifying expenditure incurred after 9 March 1982 and before 1 April 1987. FA 1987 extended this to expenditure incurred before 1 April 1992.
1767. The Housing Act 1988 introduced a new scheme of assured tenancies under which landlords no longer needed approval. This meant that changes were needed as approval of landlords was a feature of the system of assured tenancy allowances. FA 1988 therefore contained provisions to:
- prevent balancing charges arising purely as a result of changes made by the Housing Act 1988; and
  - stop most expenditure after 14 March 1988 qualifying for relief.

## **Structure of this Part**

1768. The legislation is not spent as writing-down allowances may continue for 25 years or more after expenditure was incurred. But there can be no *new* qualifying expenditure or *new* bodies that can claim writing-down allowances. Most (and possibly all) practical

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

issues have been resolved by now with writing-down allowances being claimed year by year.

1769. As these allowances were based largely on industrial buildings allowances, the same structure has, so far as possible, been adopted as in Part 3.

### ***Chapter 1: Introduction***

#### ***Section 490: Assured tenancy allowances***

1770. This section is based on sections 84(1), 86(1), (2) and (4) and 97(1) of CAA 1990.
1771. It sets out the requirements for qualifying expenditure and a qualifying dwelling-house before allowances are available.
1772. The section gives part of the meaning of “qualifying dwelling-house” and a signpost to other provisions that deal with the concept of a qualifying dwelling-house.
1773. This section refers to a number of terms that are not defined in the Taxes Acts. Definitions, which are not exhaustive in all cases, are set out below.

#### **Section 56(1) of the Housing Act 1980 (repealed with savings by the Housing Act 1988)**

“A tenancy under which a dwelling-house is let as a separate dwelling is an assured tenancy and not a housing association tenancy (within the meaning of section 86 of the 1977 Act) or a protected tenancy if–

- (a) the conditions described in section 56A or 56B are satisfied,
- (b) the interest of the landlord has, since the creation of the tenancy, belonged to an approved body, and
- (c) the tenancy would, when created, have been a protected tenancy or, as the case may be, a housing association tenancy but for this section.”

1774. Section 56A of the Housing Act 1980 dealt with buildings erected after 7 August 1980. Section 56B of the Housing Act 1980 dealt with buildings to which works had been carried out and other conditions satisfied.

#### **Section 1(1) of the Housing Act 1988**

“A tenancy under which a dwelling-house is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as–

- (a) the tenant or, as the case may be, each of the joint tenants is an individual; and
- (b) the tenant or, as the case may be, at least one of the joint tenants occupies the dwelling-house as his only or principal home; and
- (c) the tenancy is not one which, by virtue of subsection (2) or subsection (6) below, cannot be an assured tenancy.”

#### **Section 18(1) of the Rent Act 1977**

“Subject to sections 24(3) and 143 of this Act, a “regulated tenancy” is, for the purposes of this Act, a protected or statutory tenancy

#### **Section 86(1) of the Rent Act 1977**

“In this Part of this Act “housing association tenancy” means a tenancy to which this Part of this Act applies

#### **Section 56(4) of the Housing Act 1980 (repealed with savings by the Housing Act 1988)**

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

“In this Part of this Act “approved body” means a body, or one of a description of bodies, for the time being specified for the purposes of this Part of this Act in an order made by the Secretary of State.

***Section 491: Allowances available in relation to old expenditure only***

1775. This section is based on sections 84 and 96(3) of CAA 1990. It contains time limits regarding when qualifying expenditure is incurred if allowances are to be given under this Part. Expenditure must have been incurred by 31 March 1992 in order for allowances to be given in respect of it.

***Section 492: Meaning of “approved body”***

1776. This section is based on section 97(1) of CAA 1990. Section 56(4) of the Housing Act 1980 is set out above.

***Section 493: Expenditure on the construction of a building***

1777. This section is based on sections 93(1) and 97(2) of CAA 1990. It stops allowances being given for the cost of land and says how “capital repairs” are treated. There are similar provisions in Part 3.

***Chapter 2: The relevant interest***

***Section 494: Introduction***

1778. This section is a signpost that the Chapter deals, in relation to expenditure on constructing a building, first with the concept of the relevant interest in the building and then with the relevant interest in a dwelling-house comprised in the building. There may be more than one dwelling-house comprised in a building.

***Section 495: General rule as to what is the relevant interest in the building***

1779. This section is based on section 95(1) and (2) of CAA 1990.

1780. In relation to construction expenditure, the relevant interest is the interest in the building that the person incurring that expenditure holds when the expenditure is incurred.

1781. *Subsection (2)* signposts the fact that later provisions in this Chapter can modify the general rule

1782. *Subsection (3)* deals with the case in which the person incurring the construction expenditure holds more than one interest in the building.

***Section 496: Interest acquired on completion of construction***

1783. This section is based on section 97(3) of CAA 1990.

1784. It deals with the case in which the person incurring the construction expenditure becomes entitled to an interest in the building when construction is completed. Without this provision there might be no relevant interest because that person might have no interest in the building when the construction expenditure is incurred. The absence of a relevant interest could effectively deny relief for the cost of the building that might otherwise be available.

1785. There is added “or as a result of the” in paragraph (b). See *Change 34* in Annex 1. But this change is likely to have no effect for this Part as qualifying expenditure and the relevant interest have almost certainly been established many years ago.

***Section 497: Effect of creation of subordinate interest***

1786. This section is based on part of section 95(3) of CAA 1990. It provides that the relevant interest is not changed by the creation of a subordinate interest.

***Section 498: Merger of leasehold interest***

1787. This section is based on part of section 95(3) of CAA 1990. If the relevant interest is a leasehold interest, which merges in a way set out in the section, the relevant interest becomes the interest into which the leasehold merges.

***Section 499: Provisions applying on termination of lease***

1788. This section is based on section 94 of CAA 1990.

1789. *Subsection (1)* does not reproduce section 94(1)'s reference to "capital expenditure" as the expenditure in relation to which there is a relevant interest. The equivalent in this Act would have been "qualifying expenditure". But the different approach has no effect. If there is no qualifying expenditure there is nothing for this section, or Part, to act on.

1790. *Subsections (2) and (3)* treat a lease as continuing in certain circumstances. The rule prevents balancing adjustments being made in circumstances in which it would be inappropriate.

1791. *Subsection (4)* treats the relevant interest (the lease) as surrendered for consideration if the lessor makes certain payments to the lessee on the lease termination. Section 572(1)(b) will then treat the surrender of the lease as if it was a sale of the relevant interest. Section 514(a) then gives a balancing event on which any appropriate balancing adjustment can be made.

1792. *Subsection (5)* treats a new lease as the same lease as a terminated lease in the circumstances set out.

***Section 500: The relevant interest in the dwelling-house***

1793. This section is based on part of section 95(1) of CAA 1990.

***Chapter 3: Qualifying expenditure***

***Section 501: Capital expenditure on construction***

1794. This section is based on parts of sections 85(1) and (2) and 87(1) of CAA 1990. It sets out when the construction expenditure is qualifying expenditure.

***Section 502: Purchase of unused dwelling-house used where developer not involved***

1795. This section is based on parts of section 91(1) and (2) of CAA 1990. It gives the qualifying expenditure if the relevant interest in the building is sold before the dwelling-house is first used and no developer is involved.

1796. Section 91 of CAA 1990 is expressed to apply for the purposes of sections 85 to 90 of CAA 1990. But, as it is clear that section 91 is also meant to apply for the purpose of section 96, that limitation is omitted in this section. See *Note 65* in Annex 2.

***Section 503: Purchase of dwelling-house sold unused by developer***

1797. This section is based on parts of section 91(1) and (3) of CAA 1990. It gives the qualifying expenditure if the relevant interest in the building is sold before the dwelling-house is first used and a developer is involved.

1798. As in section 502 the limitation in section 91 of CAA 1990 is omitted. See *Note 65* in Annex 2.

#### ***Chapter 4: Qualifying dwelling-houses***

##### ***Section 504: Requirements relating to the landlord***

1799. This section is based on section 86(3) and (5) of CAA 1990. It sets out some of the conditions for a dwelling-house to be a qualifying dwelling-house. One of the conditions is that the landlord is a company (subject to a transitional exception).

##### ***Section 505: Qualifying dwelling-houses: exclusions***

1800. This section is based on part of section 86(3) of CAA 1990. It gives circumstances in which a dwelling-house is not a qualifying dwelling-house.

##### ***Section 506: Dwelling-house ceasing to be qualifying dwelling-house***

1801. This section is based on section 89 of CAA 1990. It allows a dwelling-house to continue to be treated as a qualifying dwelling-house during periods of temporary disuse. The section also ensures that a balancing adjustment can be made if a dwelling-house ceases to be a qualifying dwelling-house despite the fact that the relevant interest in the dwelling-house has not been sold.

#### ***Chapter 5: Writing-down allowances***

##### ***Section 507: Entitlement to writing-down allowance***

1802. This section is based on part of section 85(1) of CAA 1990. It sets out the conditions needed for a person to claim a writing-down allowance.

1803. *Subsection (2)* allows a claim for less than the full writing-down allowance. See *Change 38* in Annex 1.

##### ***Section 508: Basic rule for calculating amount of allowance***

1804. This section is based on part of section 85(2) of CAA 1990. It gives the rate at which writing-down allowances are available if there has been no change under the following section.

##### ***Section 509: Calculation of allowance after sale of relevant interest***

1805. This section is based on part of section 85(3) of CAA 1990. It gives a formula to work out the new rate at which writing-down allowances are available following a sale of the relevant interest on which a balancing adjustment falls to be made.

1806. *Subsection (2)* refers to the 25-year period beginning with the day on which the “dwelling-house” was first used in the definition of “B”. But section 85(3) of CAA 1990 refers to the period beginning with the date on which the “building” was first used. Section 85(3) is not consistent with section 87(2) of CAA 1990 which limits the period during which balancing adjustments can be made by reference to first use of the dwelling-house. This section is rewritten on the basis that a mistake was made in section 85(3)’s reference to first use of the building. See *Note 66* in Annex 2.

##### ***Section 510: Allowance limited to residue of qualifying expenditure attributable to dwelling-house***

1807. This section is based on section 85(4) of CAA 1990. It stops allowances from exceeding the qualifying expenditure in respect of which they are given.

##### ***Section 511: Qualifying expenditure attributable to dwelling-house***

1808. This section is based on section 96(1) and (2) of CAA 1990. This Chapter calculates allowances by reference to the qualifying expenditure attributable to the dwelling-

house. This section sets out how to determine the qualifying expenditure attributable to a dwelling-house starting with the qualifying expenditure attributable to the building (found from Chapter 3). A limit is set on the qualifying expenditure attributable to a dwelling-house.

***Section 512: Residue of qualifying expenditure attributable to dwelling-house***

1809. This section is partly based on section 90(1) of CAA 1990. It gives a signpost to where details on the residue, which is referred to in this Chapter, can be found.

***Chapter 6: Balancing adjustments***

***Section 513: When balancing adjustments are made***

1810. This section is based on section 87(1) and (2) of CAA 1990. It sets out when balancing adjustments are made and who they are made to or on.

***Section 514: Balancing events***

1811. This section is based on parts of sections 87(1) and 150(4) of CAA 1990. It lists events which can trigger a balancing adjustment.

***Section 515: Proceeds from balancing events***

1812. This section is based on part of section 156 of CAA 1990. It sets out in tabular form the proceeds to be used in calculating the balancing adjustment.

***Section 516: Dwelling-house a qualifying dwelling-house throughout***

1813. This section is based on section 87(3) and (4) and part of section 88(1) of CAA 1990.

1814. It sets out the calculation of a balancing adjustment if the dwelling-house was always a qualifying dwelling-house while the person held the relevant interest. Essentially the balancing adjustment is found by a straight comparison of the proceeds against the residue.

***Section 517: Dwelling-house not a qualifying dwelling-house throughout***

1815. This section is based on section 88 of CAA 1990. It sets out the calculation of a balancing adjustment if the dwelling-house was not a qualifying dwelling-house for some of the time that the person held the relevant interest.

1816. The calculation starts by comparing the proceeds with the person's "starting expenditure". The "starting expenditure" is defined in section 521.

1817. If the proceeds exceed or equal the starting expenditure, all allowances given to the person are recaptured by a balancing charge.

1818. If the proceeds are less than the starting expenditure then the person has broadly suffered a "loss" on the dwelling-house. This "loss" is pro-rated to the part of the person's period of ownership during which the dwelling-house was a qualifying dwelling-house. There is a formula for this in section 522 and the result is called the adjusted net cost.

1819. Then there is a balancing allowance or balancing charge, as the case may be, based on whether the adjusted net cost is more (allowance) or less (charge) than the allowances given to the person. The adjustment is the difference between the proceeds and the adjusted net cost.

***Section 518: Overall limit on balancing charge***

1820. This section is based on section 87(6) of CAA 1990. It limits balancing charges on a person to allowances given to that person.

***Section 519: Recovery of old initial allowances made on incorrect assumptions***

1821. This section is based on section 87(7) and (8) of CAA 1990. It ensures that initial allowances made under earlier provisions can be withdrawn if the dwelling-house has not yet been used and turns out not to be a qualifying dwelling-house when it is first used. This is a transitional provision which, as time goes by, is increasingly unlikely to be needed.

***Section 520: The relevant period of ownership***

1822. This section is based on section 88(5) of CAA 1990 (“the relevant period”).

***Section 521: Starting expenditure***

1823. This section is based on section 88(5) of CAA 1990 (“the capital expenditure”). There seems to be an obvious mistake in section 88(5) as it must have been intended to define “the capital expenditure *appropriate to the dwelling-house*” which is the term used in section 88(2). This section is rewritten to correct that mistake.

***Section 522: Adjusted net cost***

1824. This section is based on section 88(5) of CAA 1990.

***Chapter 7: Writing off qualifying expenditure attributable to dwelling-house***

***Section 523: Introduction***

1825. This section is based on part of section 90(1) of CAA 1990. It is a signpost to the fact that the residue of qualifying expenditure appropriate to a dwelling-house varies with the time at which it is to be found. The residue is found by starting with the qualifying expenditure appropriate to the dwelling-house and making any adjustments required by this Chapter up to the time concerned.

***Section 524: Writing off initial allowances***

1826. This section is based on section 90(2) of CAA 1990. It writes off any initial allowances that were made in respect of the qualifying expenditure attributable to the dwelling-house. The write off occurs when the dwelling-house is first used.

***Section 525: Writing off writing-down allowances***

1827. This section is based on section 90(3) and (4) of CAA 1990. It writes off any writing-down allowances that were made in respect of the qualifying expenditure attributable to the dwelling-house. The write off occurs at the end of the chargeable period for which the allowance is given.

1828. *Subsection (2)* clarifies the order in which adjustments to the residue must be made in the unusual case in which a balancing event also occurs at the end of the chargeable period.

***Section 526: Writing off expenditure for periods when building not used as qualifying dwelling-house***

1829. This section is based on section 90(5) of CAA 1990. It writes off part of the qualifying expenditure attributable to the dwelling-house for any period, after it is first used, during which the dwelling-house is not a qualifying dwelling-house. The write off is at the rate at which writing-down allowances could have been given during that period if the dwelling-house had been a qualifying dwelling-house.

1830. The rate at which writing-down allowances could have been given might vary during the period when the dwelling-house is not a qualifying dwelling-house. If so, the write



off is found by splitting the period into periods during which the rate is the same and adding together the write-offs appropriate to each of those periods.

***Section 527: Writing off or increase of expenditure where balancing adjustment made***

1831. This section is based on section 90(6) to (8) of CAA 1990. It increases the residue of qualifying expenditure attributable to the dwelling-house by any balancing charge and reduces it by any balancing allowance made when the relevant interest is sold. The adjustment is made at the time when the relevant interest is sold.
1832. *Subsection (4)* makes sure that this section cannot result in the purchaser of the relevant interest “inheriting” a residue of qualifying expenditure greater than the price the purchaser effectively paid for the dwelling-house.

***Section 528: Treatment of demolition costs***

1833. This section is based on section 90(9) of CAA 1990. It allows the net cost of demolition of the dwelling-house to be added to the residue immediately before the demolition occurs if a balancing adjustment may occur on the demolition. This increase in the residue permits appropriate relief for the demolition costs in working out the balancing adjustment under Chapter 6.

***Chapter 8: Supplementary provisions***

***Section 529: Giving effect to allowances and charges***

1834. This section is based on section 92 of CAA 1990 and parts of sections 140(2), 144(2) and 161(5) of CAA 1990.
1835. It sets out how allowances are given and charges are made. Section 92(1) of CAA 1990 is not rewritten. See *Note 67* in Annex 2.

***Section 530: Apportionment of sums partly referable to non-qualifying assets***

1836. This section is based on section 97(4) of CAA 1990.
1837. The price paid for the relevant interest in the building may be attributable to things other than construction expenditure in relation to which relief may be given under this Part. For instance, an element of the price will usually be attributable to land. This section allows appropriate apportionments to be made of the price paid.
1838. Apportionment is also allowed for insurance receipts (and so on) – which are not sale proceeds. This prevents proceeds coming into the calculation of balancing adjustments to the extent that the proceeds are attributable to expenditure for which no relief can be given.
1839. *Subsection (1)* omits the reference to “or structure” contained in section 97(4) of CAA 1990. That was a mistake because those words are not relevant to Part IV of CAA 1990 although the equivalent words in section 21(3) of CAA 1990 are relevant to Part I of CAA 1990.
1840. *Subsection (1)* uses the term “just and reasonable apportionment”. Section 97(4) on which it is based uses “just apportionment”. This is a change. See *Change 40* in Annex 1.

***Section 531: Meaning of “dwelling-house”, “lease” etc.***

1841. This section is based on section 97(1) (“dwelling-house”) of CAA 1990 and sections 161(2) and 162 of CAA 1990.