

# CAPITAL ALLOWANCES ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Glossary*

#### **Part 11: Contributions**

##### **Overview**

1842. This Part deals with contributions one person (the contributor “C”) makes to expenditure by another person (the recipient “R”).
1843. [Chapter 1](#) generally stops the recipient (R) getting capital allowances on expenditure met by the contributor (C). But there are exceptions to this general rule.
1844. [Chapter 2](#) enables the contributor (C) to get capital allowances under Parts 2 to 5 for a contribution in some cases.

##### **Background**

1845. ITA 1945 introduced provisions to deny allowances if expenditure was met by a grant or other capital contribution. But exceptions were made to this for:
- insurance or other compensation; and
  - contributions (other than government grants and the like) from someone who could not get capital allowances on them under the provisions for contributors.
1846. The legislation for contributors gave the contributor (C) entitlement to:
- plant and machinery allowances;
  - industrial buildings allowances;
  - agricultural buildings allowances; or
  - mineral extraction allowances;
- for capital contributions for the purposes of the contributor’s trade, or a trade carried on by the contributor’s tenant, if the contribution met certain conditions. The main conditions were that:
- the recipient (R) would have been entitled to allowances but for the rule described in paragraph 1845; and
  - the contributor (C) would have been entitled to allowances if C had incurred the expenditure on a similar asset.
1847. Similar legislation was included in section 17 of FA 1956 which introduced allowances for dredging.

1848. This broad approach remains in sections 153 to 155 of CAA 1990 and (for dredging) section 134(8) of CAA 1990. But sections 153 to 155 incorporate various changes since 1945. The main changes were:

- FA 1971 revised the legislation enabling the contributor (C) to get plant and machinery allowances to take account of the introduction of pooling; and
- FA 1989 (in preparation for consolidation in CAA 1990):
  - extended the provisions to professions and vocations as for trades;
  - denied the recipient (R) allowances if the contributor (C) could get tax relief for the contribution as a trading expense; and
  - required contributions on which the contributor (C) claimed plant and machinery allowances to be allocated to a separate pool.

### ***Chapter 1: Exclusion of expenditure met by contributions***

#### **Overview**

1849. This Chapter gives the rules for contributions for a recipient (R).

1850. [Section 532](#) is the general rule. The recipient (R) is not treated as incurring expenditure if it is met by a contribution. This section does not apply for dredging but [section 533](#) gives a similar rule for that.

1851. [Sections 534 to 536](#) are exceptions to the general rule in [section 532](#) for:

- Northern Ireland regional development grants;
- insurance or other compensation; and
- some contributions by persons (other than public bodies) who cannot get tax relief for them.

#### ***Section 532: The general rule excluding contributions***

1852. This section is based on parts of sections 153(1) and (4) and 134(8) of CAA 1990 together with part of [section 532\(1\)](#) of ICTA. It gives the general rule excluding contributions from expenditure for the purposes of all Parts other than Part 9. It also defines “public body” for the purposes of Chapter 1.

1853. [Section 532\(1\)](#) of ICTA treats [sections 520 to 531](#) and [533](#) as if they were contained in CAA 1990.

#### ***Section 533: Exclusion of contributions to dredging***

1854. This section is based on [section 134\(8\)](#) of CAA 1990. It gives the rule excluding contributions to expenditure on dredging.

#### ***Section 534: Northern Ireland regional development grants***

1855. This is the first of three sections which make exceptions to the general rule in [section 532](#). It is based on parts of [section 153\(1\)](#) of CAA 1990 and [section 137](#) of FA 1982. It leaves expenditure met by Northern Ireland regional development grants to qualify for capital allowances (if, of course, the necessary conditions are met).

1856. *Subsection (1)* uses the term “Northern Ireland legislation”. This term is defined by [Schedule 1](#) and [section 24\(5\)](#) of the Interpretation Act 1978. Paragraph 3 of [Schedule 13](#) to the Northern Ireland Act 1998 provides an amendment which would cover Acts of the Assembly.

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

1857. *Subsections (2) and (3)* are based on section 137 of FA 1982. Their effect is that the general rule in section 532 excluding contributions does apply (despite subsection (1)) if a grant is “netted off” by paragraph 8 of Schedule 3 to OTA 1975 for the purposes of arriving at expenditure for petroleum revenue tax relief. In summary, in these particular circumstances the recipient (R) cannot get capital allowances.
1858. Subsection (3) deals with a subset of these cases if part of the expenditure met by the grant would have qualified for petroleum revenue tax relief (but for paragraph 8) and part would not have. The part which would not have qualified for relief is left for the “normal” capital allowances rules to apply. In summary, the recipient (R) may be able to get capital allowances for that part of the grant.
1859. [Paragraph 106](#) of Schedule 3 maintains other provisions relating to this exception which have at most only transitional effect.

***Section 535: Insurance or compensation money***

1860. This section is based on part of section 153(2) of CAA 1990. It excludes from the general rule insurance or other compensation payable in respect of the destruction of an asset and similar disposal events.
1861. There is a minor change. In CAA 1990 this exception does not apply for Part VII (R&D allowances). This Act applies the exception to Part 6 (R&D allowances). So expenditure is not denied R&D allowances because it was met by insurance or the like. See *Change 58* in Annex 1.

***Section 536: Contributions not made by public bodies and not eligible for tax relief***

1862. This section is based mainly on section 153(2) and (3) of CAA 1990. It excludes contributions from the general rule (and so leaves the recipient (R) with expenditure which might qualify for allowances) if the conditions in subsections (2) and (3) are met. There are two minor changes.
1863. *Subsections (3) and (5)* are based on section 153(2)(b) of CAA 1990. In sections 153 to 155 of CAA 1990 there are explicit references to a profession or vocation as well as a trade. But Part II of CAA 1990 treats some other activities (“qualifying activities” in Part 2 of this Act) as trades for various purposes.
1864. [Section 27](#), which treats professions and vocations (and offices and employments) like trades, does so only for the purposes of Part II of CAA 1990. So “trade” in sections 153 to 155 of CAA 1990 clearly does not have its meaning extended by section 27 (although as mentioned above it is explicitly extended to mean also profession and vocation).
1865. Sections 28, 28A and 29 of CAA 1990 deem other things to be trades. Their effect is not limited in the same way to Part II of CAA 1990. So whether or not “trade” in sections 153 to 155 includes them is not clear. This affects both the contributor (C) and the recipient (R) (because if C’s activity is included it may mean R cannot get allowances).
1866. This Act replaces these deemed trades by qualifying activities in Part 2. As a result this Part makes explicit the activities to which it applies for the purposes of plant and machinery allowances. Subsection (5) does this. See *Change 59* in Annex 1.
1867. In section 153 of CAA 1990 this exception does not apply for Part VII (R&D allowances). In this Act it does. As with paragraph 1861 above, see *Change 58* in Annex 1.
1868. Section 126(4) of FA 1990 makes a similar exception for contributions out of certain pools payments. That legislation is not incorporated in this Act as the likelihood of contributions being made now is very small. Section 126(4) will, however, continue in force should there be any such contributions in periods covered by this legislation.

1869. [Paragraph 107](#) of Schedule 3 maintains the transitional provisions in section 153(5) of CAA 1990 for contributions made before 27 July 1989.
1870. “Public body” is defined in section 532.

## ***Chapter 2: Contribution allowances***

### **Overview**

1871. This Chapter enables certain contributions to another person’s expenditure to qualify for allowances under Parts 2 to 5 and Part 9.
1872. [Section 537](#) gives the general conditions which have to be satisfied for contributions to be able to lead to allowances under Parts 2 to 5.
1873. [Sections 538 to 541](#) then give additional details relevant to each of those Parts in turn.
1874. [Section 542](#) provides for allowances to be given on contributions after the transfer of a trade or relevant activity.
1875. [Section 543](#) provides allowances for contributions for dredging.

### ***Section 537: Conditions for contribution allowances under Parts 2 to 5***

1876. This section is based on parts of section 154 of CAA 1990. It gives the general conditions which have to be met if a contributor (C) is to be able to get allowances under Parts 2 to 5 for a contribution.
1877. Section 154 of CAA 1990 applies explicitly to trades, professions and vocations. Subsection (4) applies for this Chapter the explicit list of activities in section 536(5). See paragraph 1866 above and *Change 59* in Annex 1.

### ***Section 538: Plant and machinery***

1878. This section is based mainly on sections 154(2) and 155(6) of CAA 1990 together with parts of sections 154(1) and 155(2) and (3) of CAA 1990. If the conditions in subsection (1) are met, the contributor (C) is treated by subsection (2) as incurring expenditure on, owning and using R’s asset. This means the contributor (C) meets some of the conditions for plant and machinery allowances which otherwise would mean the contributor (C) had no entitlement. It does not mean the contributor (C) is necessarily entitled to plant and machinery allowances. For example the asset must still be plant or machinery.
1879. There is a minor change. *Subsection (3)* requires expenditure to be allocated to a single asset pool. This was the intention in 1989 (in what became, on consolidation, section 155(6) of CAA 1990) in order that plant and machinery allowances for a contribution could be given to a successor if part of a trade was transferred. But the fact that the expenditure is meant to be allocated to a single asset pool was not achieved unambiguously. See *Change 60* in Annex 1.
1880. The general rule for single asset pools for contributions expenditure now covers contributions to expensive cars, in contrast to section 35(1) of CAA 1990 which handles them separately. See *Note 19* in Annex 2.
1881. *Subsections (4) to (6)* provide for allowances in respect of contributions to be given to a successor when an activity or part of an activity is transferred.
1882. The single asset pool for contributions expenditure on plant and machinery leads to writing-down allowances at 25%, 10% or 6% as appropriate. Sections 102(2) and 109(3) apply to all types of single asset pools. See *Note 23* in Annex 2.

1883. By providing explicitly for property businesses to be “relevant activities” for the purposes of Part 2 it is not necessary for this Act to make specific provision for plant and machinery allowances for a landlord’s contributions to expenditure for the purposes of a tenant’s trade. See *Note 68* in Annex 2.

***Section 539: Industrial buildings***

1884. This section is based on section 154(1) and parts of section 155 of CAA 1990. If the conditions in subsection (1) are met, the contributor (C) is treated by subsection (2) as incurring expenditure on, and using, a similar asset to R’s.
1885. *Subsections (3) to (6)* provide for entitlement to industrial buildings allowances in respect of contributions made for the purposes of a tenant’s trade to go with the relevant interest held by C.

**Example**

Trader R builds a factory on land R rents from C. C makes a contribution towards R’s expenditure on the construction of the factory for the purposes of R’s trade. The factory is used for a qualifying trade and R is entitled to industrial buildings allowances.

C can claim industrial buildings allowances as if the contribution had been expenditure on a similar factory.

C subsequently (within the writing-down period) sells the land to D. Then D is entitled to industrial buildings allowances for the chargeable period in which the transfer takes place and subsequent chargeable periods.

***Section 540: Agricultural buildings***

1886. This section is very similar to section 539. But, on a transfer of a landlord’s relevant interest, the provisions of Part 4 apply in place of those for Part 3.
1887. **Paragraph 110** of Schedule 3 maintains the effect of section 155(7) of CAA 1990 which can only have effect in relation to contributions made before 27 July 1989.

***Section 541: Mineral extraction***

1888. This section is similar to sections 539 and 540. But it is not necessary to provide for mineral extraction allowances for a landlord’s contribution for the purposes of a tenant’s trade. Mineral extraction allowances are only available to persons carrying on a trade. See *Note 68* in Annex 2.

***Section 542: Transfer of C’s trade or relevant activity***

1889. This section is based on section 155(3) of CAA 1990. It provides for allowances under Parts 3 to 5 in respect of contributions for the purposes of a trade or other activity to be given to a successor if the activity is transferred.

***Section 543: Contribution allowances under Part 9***

1890. This section is based on part of section 134(8) of CAA 1990. It provides for allowances for contributions to expenditure on dredging.