



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 13

PROVISIONS AFFECTING MINING AND OIL INDUSTRIES

Provisions relating to ring fence trades

164 [^{F1}General decommissioning expenditure] incurred before cessation of ring fence trade

[^{F2}(1) A person (“R”) carrying on a ring fence trade may elect to have a special allowance made to R for a chargeable period (the “relevant chargeable period”) if conditions A and B are met.

(1A) Condition A is that one or more of these paragraphs applies—

- (a) R incurs general decommissioning expenditure in the relevant chargeable period in respect of decommissioning carried out in that period;
- (b) R incurs general decommissioning expenditure in the relevant chargeable period in respect of decommissioning carried out in a previous chargeable period;
- (c) R incurred general decommissioning expenditure in a previous chargeable period in respect of decommissioning that has not been carried out until the relevant chargeable period.

(1B) Condition B is that the plant or machinery concerned has been brought into use for the purposes of the ring fence trade.]

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 164. (See end of Document for details)

[^{F3}(1C) If the plant or machinery concerned is incidentally-acquired redundant plant or machinery (see subsection (1D)), it is to be regarded for the purposes of this section as having been brought into use for the purposes of the ring fence trade.

- (1D) Plant or machinery is “incidentally-acquired redundant plant or machinery” if—
- (a) it has not been brought into use for the purposes of the ring fence trade,
 - (b) it forms part of a relevant installation (see subsection (1E)) which has been brought into use for the purposes of the ring fence trade,
 - (c) at the time R acquired an interest in the relevant installation, the plant or machinery was not being used for any purposes, and
 - (d) the acquisition of the interest in the plant or machinery was merely incidental to the acquisition of the interest in the relevant installation.

(1E) For the purposes of subsection (1D)—

“relevant installation” means—

- (a) an offshore installation,
- (b) a submarine pipeline, or
- (c) a relevant onshore installation;

“offshore installation” and “submarine pipeline” have the same meaning as in Part 4 of the Petroleum Act 1998;

“relevant onshore installation” has the meaning given by section 163(3C).]

(2) The election—

- (a) must be made by notice to [^{F4}an officer of Revenue and Customs] no later than 2 years after the end of [^{F5}the relevant chargeable period, and]
- (b) is irrevocable.

(3) The election must specify—

- (a) the [^{F6}general decommissioning expenditure] to which it relates, ^{F7}...
- [^{F8}(aa) the chargeable period in which the expenditure was incurred,
- (ab) the decommissioning to which the expenditure relates,
- (ac) the chargeable period in which the decommissioning was carried out, and]
- [^{F9}(b) where the plant or machinery concerned has been or is to be demolished, any amounts received for its remains.]

(4) If a person makes an election under this section—

- (a) he is entitled to a special allowance ^{F10}... for [^{F11}the relevant chargeable period, and]
- [^{F12}(b) neither of sections 26(3) and 161C(2)(net cost of demolition where plant or machinery not replaced, or cost of preparing for reuse, added to existing pool) applies.]

[^{F13}(5) The amount of the special allowance for [^{F14}the relevant chargeable period is equal to the amount of the general decommissioning expenditure to which the election relates.]

[But subsection (5) is subject to subsections (5B) and (6) [^{F16}and sections 165A to ^{F15}(5A) 165E.]

- (5B) If an amount of general decommissioning expenditure to which the election relates is disproportionate to the relevant decommissioning carried out in the specified decommissioning period then, for the purposes of this section, the election is to be taken to specify only the allowable expenditure.

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(5C) The application of subsection (5B) to an amount of general decommissioning expenditure does not prevent a person from making an election under this section for a subsequent chargeable period specifying the non-allowable expenditure.

(5D) In subsections (5B) and (5C)—

“allowable expenditure”, in relation to general decommissioning expenditure, means the amount of the expenditure that is proportionate to the relevant decommissioning carried out in the specified decommissioning period;

“non-allowable expenditure”, in relation to general decommissioning expenditure, means so much of that expenditure as is not allowable expenditure;

“relevant decommissioning”, in relation to general decommissioning expenditure, means the decommissioning to which the expenditure relates;

“specified decommissioning period”, in relation to relevant decommissioning, means the chargeable period specified in the election as the period in which the decommissioning was carried out;

“specified expenditure period”, in relation to general decommissioning expenditure, means the chargeable period specified in the election as the period in which the expenditure was incurred.]

(6) If plant or machinery is demolished, the total of any special allowances in respect of expenditure on decommissioning the plant or machinery is reduced by any amount received for the remains of the plant or machinery.

Here “decommissioning” has the meaning given by section 163(4A).

(7) Effect is given to subsection (6) by setting the amount (until wholly utilised)—

first, against any special allowance for the chargeable period in which the amount is received (as previously reduced in giving effect to subsection (6));

second, against special allowances for earlier chargeable periods (as so reduced and taking later such periods before earlier ones); and

third, against special allowances for later chargeable periods (as so reduced and taking earlier such periods before later ones).]

Textual Amendments

- F1** Words in s. 164 heading substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 5\(2\)](#)
- F2** S. 164(1)-(1B) substituted for s. 164(1) (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 3\(2\)](#)
- F3** S. 164(1C)-(1E) inserted (with effect in accordance with s. 91(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 91\(1\)](#)
- F4** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), [s. 53\(1\)](#), [Sch. 4 para. 83\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F5** Words in s. 164(2)(a) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 3\(3\)](#)
- F6** Words in s. 164(3)(a) substituted (with effect in accordance with s. 109(7) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 34 para. 5\(3\)](#)
- F7** Word in s. 164(3)(a) omitted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 38 para. 3\(4\)\(a\)](#)

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- F8** S. 164(3)(aa)-(ac) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by Finance Act 2009 (c. 10), **Sch. 38 para. 3(4)(b)**
- F9** S. 164(3)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by Finance Act 2001 (c. 9), s. 68, **Sch. 20 Pt. 2 para. 7(3)**
- F10** Words in s. 164(4)(a) repealed (with effect as mentioned in Sch. 20 para.9(1)(5)(8) of the amending Act) by Finance Act 2001 (c. 9), s. 68, 110, Sch. 20 Pt. 2 para. 7(4), **Sch. 33 Pt. 2(5)** Note 1
- F11** Words in s. 164(4)(a) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by Finance Act 2009 (c. 10), **Sch. 38 para. 3(5)**
- F12** S. 164(4)(b) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) by Finance Act 2001 (c. 9), s. 68, **Sch. 20 Pt. 2 para. 7(5)**
- F13** S. 164(5)-(7) substituted (with effect as mentioned in Sch. 20 para. 9(1)(5)(8) of the amending Act) for s. 164(5) by Finance Act 2001 (c. 9), s. 68, **Sch. 20 Pt. 2 para. 7(6)**
- F14** Words in s. 164(5) substituted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by Finance Act 2009 (c. 10), **Sch. 38 para. 3(6)**
- F15** S. 164(5A)-(5D) inserted (with effect in accordance with Sch. 38 para. 5 to the amending Act) by Finance Act 2009 (c. 10), **Sch. 38 para. 3(7)**
- F16** Words in s. 164(5A) inserted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 32 para. 6**

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 164.