



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 3

#### INDUSTRIAL BUILDINGS ALLOWANCES

### CHAPTER 12

#### SUPPLEMENTARY PROVISIONS

#### **356 Apportionment of sums partly referable to non-qualifying assets**

- (1) If the sum paid for the sale of the relevant interest in a building is attributable—
  - (a) partly to assets representing expenditure for which an allowance can be made under this Part, and
  - (b) partly to assets representing other expenditure,  
only so much of the sum as on a just and reasonable apportionment is attributable to the assets referred to in paragraph (a) is to be taken into account for the purposes of this Part.
- (2) Subsection (1) applies to other proceeds from a balancing event in respect of a building as it applies to a sum given for the sale of the relevant interest in the building.
- (3) Subsection (1) does not affect any other provision of this Act requiring an apportionment of the proceeds of a balancing event.

#### **357 Arrangements having an artificial effect on pricing**

- (1) If—
  - (a) the relevant interest in a building is sold,
  - (b) related arrangements have been entered into, at or before the time when the sale price is fixed, which had the effect at that time of enhancing the value of the relevant interest, and

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- (c) the arrangements contain a provision which has an artificial effect on pricing (see subsection (4)),  
the sum paid on the sale of the relevant interest is to be treated for the purposes of arriving at qualifying expenditure as reduced to what it would have been if the arrangements had not contained the provision having that artificial effect.
- (2) If—
- (a) qualifying expenditure is equal to a price paid on a sale of the relevant interest in a building,
  - (b) related arrangements have been entered into, at or before the time when the sale price is fixed, which had the effect at that time of enhancing the value of the relevant interest, and
  - (c) the arrangements contain a provision which has an artificial effect on pricing, the proceeds from any balancing event subsequently occurring in relation to the building are to be treated for the purposes of this Part as reduced to what they would have been if the arrangements had not contained the provision having that artificial effect.
- (3) “Related arrangements” means arrangements between two or more persons which relate—
- (a) to an interest in or right over the building, or
  - (b) to other arrangements made with respect to such an interest or right;
- and for this purpose it is immaterial whether the interest or right in question is granted by the person entitled to the relevant interest or another person.
- (4) Arrangements contain a provision having an artificial effect on pricing to the extent that they go beyond what could reasonably have been regarded as required in comparable commercial transactions by the market conditions prevailing when the arrangements were entered into.
- (5) “Comparable commercial transactions” means transactions—
- (a) involving interests in or rights over buildings of the same kind as (or of a similar kind to) the building to which the arrangements relate, and
  - (b) made by persons dealing with each other at arm’s length in the open market.

### **358 Requisitioned land**

- (1) This section applies in relation to any period (“period of requisition”) for which compensation—
  - (a) is payable, or
  - (b) but for any agreement would be payable,
under section 2(1)(a) of the Compensation (Defence) Act 1939 (c. 75).
- (2) This Part has effect in relation to the period of requisition as if the Crown had been in possession of the land for that period under a lease.
- (3) If a person carrying on a trade is authorised by the Crown to occupy the land (or part of it) during the whole or a part of the period of requisition, this Part has effect as if the Crown had granted a sub-lease of the land (or that part of it) to the occupier.
- (4) If subsection (2) or (3) applies, references in this Part to—
  - (a) the surrender of a leasehold interest,

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- (b) a leasehold interest being extinguished on the person entitled to it acquiring the interest which is reversionary on it, or
  - (c) the merger of a leasehold interest,
- apply (with the necessary modifications) in relation to the lease under subsection (2) or the sub-lease under subsection (3).
- (5) If the person who (subject to the rights of the Crown) is entitled to possession of the land pays any sum to—
- (a) the Crown, or
  - (b) if subsection (3) applies, the occupier,
- in respect of a building constructed on the land during the period of requisition, the sum is to be treated for the purposes of this Part as paid in consideration of the surrender of the lease or sub-lease (as the case may be).

### **359 Provisions applying on termination of lease**

- (1) This section applies for the purposes of this Part if a lease is terminated.
- (2) If, with the consent of the lessor, the lessee of a building remains in possession of the building after the termination without a new lease being granted to him the lease is treated as continuing so long as the lessee remains in possession.
- (3) If on the termination a new lease is granted to the lessee as a result of the exercise of an option available to him under the terms of the first lease, the second lease is treated as a continuation of the first.
- (4) If on the termination the lessor pays a sum to the lessee in respect of a building comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment.
- (5) If on the termination—
  - (a) another lease is granted to a different lessee, and
  - (b) in connection with the transaction that lessee pays a sum to the person who was the lessee under the first lease,the two leases are to be treated as if they were the same lease which had been assigned by the lessee under the first lease to the lessee under the second lease in consideration of the payment.

### **360 Meaning of “lease” etc.**

- (1) In this Part “lease” includes—
  - (a) an agreement for a lease if the term to be covered by the lease has begun, and
  - (b) any tenancy,but does not include a mortgage (and “lessee”, “lessor” and “leasehold interest” are to be read accordingly).
- (2) In the application of this Part to Scotland—
  - (a) “leasehold interest” (or “leasehold estate”) means the interest of a tenant in property subject to a lease, and
  - (b) any reference to an interest which is reversionary on a leasehold interest or on a lease is to be read as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.

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