

THE INCOME TAX (GUERNSEY)
(CAPITAL ALLOWANCES ON GLASSHOUSES) REGULATIONS,

1973 No 44

THE INCOME TAX AUTHORITY, in exercise of the powers conferred upon it by section eight of the Income Tax (Amendment) (Guernsey) Law, 1973, hereby makes the following Regulations:-

1. These Regulations may be cited as the Income Tax (Guernsey) (Capital Allowances on Glasshouses) Regulations, 1973, and shall be deemed to have come into operation on the first day of January, 1972.

2. In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"the Administrator" means the Administrator referred to in section eighty-four of the Income Tax (Guernsey) Law, 1950, as amended;

"the Authority" means the Authority constituted under the provisions of section eighty-three of the Income Tax (Guernsey) Law, 1950, as amended;

"principals" means the main timbers used in the construction of the roof and gable ends of a glasshouse;

"the relevant section" means section 1 of the Income Tax (Amendment) (Guernsey) Law, 1973;

"site" means an area of land upon which a glasshouse has been, or is to be, constructed,

and any other expression shall have the same meaning as in the Income Tax (Amendment) (Guernsey) Law, 1973.

3. The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these Regulations as it applies to the interpretation of an enactment.

4. A site shall be an approved site for the purposes of subsection (3) of the relevant section if it conforms with all of the following requirements:-

(a) the area of the site shall be such that a glasshouse having an internal area at base level of at least three thousand square feet, together with the necessary ancillary apparatus, can be installed thereon;

(b) the soil upon the site shall not be so infected with pests or disease as to prevent the effective and economic production of commercial crops and shall be at least eight inches in depth and capable of being efficiently drained;

(c) on any sloping site, the gradient of the slope of the site shall be reduced, where necessary, so as not to exceed a gradient of one foot in fifty feet measured both along the length and breadth thereof;

PROVIDED that an existing glasshouse which, but for this requirement, would be a glasshouse which is deemed to warrant improvement shall continue to be so deemed if the site upon which it is constructed has a gradient measured both along the length and the breadth thereof which does not exceed more than one foot in twenty-five feet.

(d) the site shall not be so shaded by trees or buildings as materially to impair its use for the effective production of horticultural crops;

(e) adequate supplies of water and electricity shall be available;

(f) satisfactory access for road traffic shall be available.

5. The minimum standards prescribed by the Authority to which a glasshouse shall be constructed for the purposes of paragraph (a) of subsection (3) of the relevant section are as follows:-

- (a) the design generally shall be such as to be in accordance with the accepted best practice in relation to the type of material used;
- (b) the internal area at ground level shall be at least three thousand square feet;
- (c) the height of the fronts shall not be less than seven feet when measured from ground level inside the glasshouse;
- (d) the interior width when measured at ground level shall not be less than twenty-eight feet;
- (e) the width of the panes of glass used in the construction of the fronts and roof shall not be less than:-
 - (i) where the glasshouse is constructed with not less than five panes of glass and four glazing bars between principals, twenty inches or five hundred and eight millimetres;
 - (ii) in any other case, twenty-four inches or six hundred and ten millimetres;

and the weight per square foot or the thickness of the glass, as the case may be, shall not be less than the weight or thickness shown in the second and third columns respectively of the following table in respect of glass of the dimensions shown in the first column thereof:-

TABLE.

Width of panes of glass in inches (and millimetres)	Weight in ounces per square foot.	Thickness in millimetres.
Less than 24 inches (610 millimetres)	22	3
Not less than 24 inches (610 millimetres) and not more than 28½ inches (730 millimetres)	24	3
Exceeding 28½ inches (730 millimetres)	26	3

- (f) the total effective ventilator opening area shall not be less than fifteen percentum of the internal base area of the structure and not less than one-half of the ventilator opening area shall be provided by ridge ventilators;
- (g) where the glasshouse has an internal base area of twelve thousand square feet or more it shall have at least two doorways, one of which shall be not less than seven feet in height and eight feet in width, so however that the foregoing provisions of this paragraph shall not apply where the glasshouse is built upon an area of land which is already partly occupied by other commercial glasshouses and the site of the glasshouse is such that no provision can be made for effective access for mechanical transport or cultivating equipment;
- (h) where a glasshouse is erected on level land and where it is orientated along its length approximately from east to west, the glasshouse shall be at least eighteen feet from the nearest other structure and where it is orientated along its length approximately from north to south the glasshouse shall be at least four feet from the nearest other structure;

... where a glasshouse is erected on sloping land at such a distance apart from the nearest other structure as will permit the same quantity of light to reach the glasshouse as would have been obtained if the glasshouse had been erected on level land in accordance with the provisions of the preceding paragraph.

6. The minimum standards prescribed by the Authority to which heating apparatus shall conform for the purposes of paragraphs (b) and (d) of subsection (3) of the relevant section are as follows:-

- (a)(i) where the heating apparatus consists of a boiler and pipes, the boiler shall be capable of producing not less than fifty British Thermal Units of heat, and the piping shall be capable of producing not less than forty British Thermal Units of heat at the designed operating water temperature, for every square foot of surface area of each glasshouse which is to be heated by such apparatus; or
- (ii) where the heating apparatus consists of a warm air heating system, it shall be capable of producing not less than forty-six British Thermal Units of heat for every square foot of surface area of each glasshouse which is to be heated by such apparatus;
- (b) the layout of the piping or the warm air heating system, as the case may be, shall be so designed as to produce an even temperature throughout the glasshouse and to compensate adequately for heat losses at the fronts and gable ends thereof;
- (c) where a new hot water system is installed the piping, other than the mains, shall have an internal diameter not exceeding two inches;
- (d) any piping in blocks shall be adequately valved to provide individual control;
- (e) the boiler shall be automatically fired or capable, without substantial alteration, of being used with automatic firing devices;
- (f) the temperature in the structure shall be governed by an airstat operating within an aspirated screen and shall be subject to an overriding control;
- (g) the boiler house shall -
 - (i) be so situated as to avoid, so far as may be practicable, shading the glasshouse; and
 - (ii) provide adequate protection for all equipment; and
 - (iii) be capable of providing for foreseeable future expansion; and
 - (iv) be so situated as to reduce to the minimum the length of the mains connecting it to the glasshouse or glasshouses and any exterior mains shall be adequately lagged to prevent loss of heat;

PROVIDED that where the heating apparatus has been installed in a glasshouse which is deemed to warrant improvement, such apparatus shall comply with the requirements of paragraphs (a), (b), (c), (d) and (f) of this regulation and shall comply as nearly as may be practicable with the requirements of paragraphs (e) and (g) of this regulation.

7. The minimum standards prescribed by the Authority to which apparatus for the automatic control of ventilation shall conform for the purposes of paragraph (c) of subsection (3) of the relevant section are as follows:-

- (a) the apparatus shall provide for the effective proportional or modulating control of ventilation;
- (b) the apparatus shall be capable of maintaining pre-determined temperatures to within plus or minus 3°F.

8. The minimum standards prescribed by the Authority to which roadways and turning points shall conform for the purposes of paragraph (e) of subsection (3) of the relevant section are as follows:-

- (a) the service roadways shall not be less than eight feet in width and shall be provided with such turning point or points as may be necessary. The width of the turning point or points shall not be less than the width of the roadway and the turning point or points shall extend from the roadway for at least fifteen feet

PROVIDED that this requirement shall not apply in any case where the land upon which the roadways and the turning points are to be constructed is a part of an area of land which is already developed for the commercial production of horticultural crops in glasshouses and where this requirement cannot be met without unreasonably restricting the area of the glasshouses which may be constructed thereon.

- (b) the roadways and turning points provided shall be of a permanent nature and shall be surfaced with concrete or similar durable material.

9. Where an initial allowance would otherwise have been allowable under the provisions of the relevant section but is not so allowable because -

- (a) the internal area of a glasshouse does not conform precisely to the standard prescribed in paragraph (b) of regulation five of these Regulations because of the modular design of the glasshouse or because of some similar factor governing the exact area of the glasshouse; or
- (b) the interior width of not more than one glasshouse in any scheme of development is less than the standard prescribed in paragraph (d) of regulation five of these Regulations; or
- (c) the space between any two glasshouses orientated on a line running approximately from east to west is less than the standard prescribed in paragraph (h) of regulation five of these Regulations; or
- (d) the space between a glasshouse being a glasshouse comprising multiple spans and any other glasshouse is less than the standard prescribed in paragraph (h) of regulation five of these Regulations; or
- (e) the heating system does not conform precisely to the standard prescribed in paragraph (a) of regulation six of these Regulations, but is capable of attaining not less than ninety per centum of that standard; or
- (f) a glasshouse is constructed on the existing foundations of a glasshouse formerly constructed thereon and -
 - (i) the gradient of the slope of the length thereof is greater than the standard prescribed in paragraph (c) of regulation four of these Regulations but does not exceed a gradient of more than one foot in twenty-five feet; or
 - (ii) the said foundations are orientated along the length thereof on a line running approximately north to south and the distance between the glasshouse and the nearest other glasshouse is less than the standard prescribed in paragraph (h) of regulation five of these Regulations but the said distance between the glasshouse and the nearest other glasshouse is not less than three feet;

the Administrator may, at his discretion, and subject to the provisions of subsection (2) of section nine of the Income Tax (Amendment) (Guernsey) Law, 1973, allow the initial allowance if he is satisfied that -

- (i) the departure from the minimum standards prescribed does not infringe the principles on which the standards are based; and
- (ii) the departure from the minimum standards was necessary to facilitate the effective development of the area of land upon which the structure has been constructed; and
- (iii) the efficient commercial development of the area of land has not been materially impaired; and
- (iv) in a case in which paragraph (f) of this regulation applies, the claimant had good reasons for not complying with the standard prescribed in paragraph (c) of regulation four or in paragraph (h) of regulation five of these Regulations, as the case may be.

10.(1) Where a claim is made under the provisions of section three of the Income Tax (Amendment) (Guernsey) Law, 1973, the claimant shall submit in support of the claim a certificate signed by the Director of the Horticultural Advisory Service or, in his absence, by a member of the staff of the Horticultural Advisory Service authorised in that behalf by the President of the States Committee for Horticulture.

(2) Such certificate shall show whether or not each of the requirements and standards of these Regulations which are applicable to such claim have been fulfilled and, where any such requirement or standard has not been wholly fulfilled, the extent to which it has been fulfilled.

(3) The Administrator may require from the claimant such further information as he may require concerning the claim.

11. Where the Administrator is not satisfied that the requirements of the preceding paragraphs of these Regulations have been fulfilled in connection with any claim made under section three of the Income Tax (Amendment) (Guernsey) Law, 1973, or where the Administrator is not prepared to exercise the discretion allowed to him under regulation nine of these Regulations, he shall notify the claimant in writing of his decision as soon as may be reasonably practicable.

Dated this twenty-fourth day of September,
nineteen hundred and seventy three.

P. L. DOREY
President of the States Income Tax Authority
for and on behalf of the said Authority.

Explanatory Note.

(This note is not part of the Regulations but is intended to indicate their general purport)

These Regulations lay down the minimum standards which have to be fulfilled in order for a claimant to be entitled to an initial allowance under the provisions of section 1 of the Income Tax (Amendment) (Guernsey) Law, 1973. They prescribe the minimum standards for determining whether a site is an approved site, the minimum standards to which a glasshouse must be constructed, the minimum standards to which heating apparatus, apparatus for the automatic control of ventilation and roadways and turning points must conform.

The Regulations provide a discretionary power to the Administrator where the minimum standards are not fulfilled and lay down the criteria which he is to apply in deciding whether to exercise these discretionary powers. They also provide that where the Administrator is not satisfied that the standards prescribed have been fulfilled he shall notify the claimant in writing of his decision.

The Regulations also provide that where a claim for an initial allowance is made, the claimant must submit a certificate signed by the Director of the Horticultural Advisory Service or, in his absence, by a duly authorised member of his staff and state the matters which are to be referred to in that certificate.