



Capital Allowances Act 2001

2001 CHAPTER 2

PART 10

ASSURED TENANCY ALLOWANCES

CHAPTER 1

INTRODUCTION

490 Assured tenancy allowances

- (1) Allowances are available under this Part if qualifying expenditure has been incurred on a building which consists of or includes a qualifying dwelling-house.
- (2) A dwelling house is not a qualifying dwelling-house unless—
 - (a) it is let on a tenancy which is for the time being an assured tenancy, or
 - (b) it has been let on an assured tenancy and the conditions in subsection (4) are met.
- (3) “Assured tenancy” means—
 - (a) an assured tenancy within the meaning of section 56 of the Housing Act 1980 (c. 51), or
 - (b) an assured tenancy (but not an assured shorthold tenancy) for the purposes of the Housing Act 1988 (c. 50).
- (4) The conditions referred to in subsection (2)(b) are that—
 - (a) the dwelling-house is for the time being subject to a regulated tenancy or a housing association tenancy, and
 - (b) the landlord under the tenancy is an approved body or was an approved body but has ceased to be such for any reason.
- (5) In subsection (4) “regulated tenancy” and “housing association tenancy” have the same meaning as in the Rent Act 1977 (c. 42).

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- (6) Further requirements that have to be met for a dwelling-house to be a qualifying dwelling-house are given in sections 504 and 505; and subsection (2) is subject to section 506(2)(b) (temporary disuse of dwelling-house ignored).

491 Allowances available in relation to old expenditure only

- (1) Allowances under this Part are not available unless—
- (a) the qualifying expenditure was incurred after 9th March 1982 and before 1st April 1992, and
 - (b) if the tenancy is an assured tenancy for the purposes of the Housing Act 1988, expenditure has been incurred which is within subsection (2) or (3).
- (2) Expenditure is within this subsection if it was incurred by—
- (a) a company which was an approved body on 15th March 1988, or
 - (b) a person who sold the relevant interest in the building, before any of the dwelling-houses comprised in it were used, to a company which was an approved body on 15th March 1988,
- and either it was incurred before 15th March 1988 or it consists of the payment of sums under a contract entered into before that date.
- (3) Expenditure is within this subsection if it was incurred by a company which—
- (a) was an approved body on 15th March 1988, and
 - (b) bought or contracted to buy the relevant interest in the building before that date.

492 Meaning of “approved body”

In this Part “approved body” has the meaning given in section 56(4) of the Housing Act 1980 (c. 51).

493 Expenditure on the construction of a building

- (1) For the purposes of this Part, expenditure on the construction of a building does not include expenditure on the acquisition of land or rights in or over land.
- (2) This Part has effect in relation to capital expenditure incurred by a person on repairs to a part of a building as if it were capital expenditure on the construction of that part of the building for the first time.

CHAPTER 2

THE RELEVANT INTEREST

Introduction

494 Introduction

This Chapter identifies, in a case where a person has incurred expenditure on the construction of a building which is to be or include a qualifying dwelling-house—

- (a) the relevant interest in the building, and

- (b) the relevant interest in a dwelling-house comprised in the building.

The relevant interest in the building

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

- (1) The relevant interest in the building is the interest in the building to which the person who incurred the expenditure on the construction of the building was entitled when the expenditure was incurred.
- (2) Subsection (1) is subject to the following provisions of this Chapter.
- (3) If—
- (a) the person who incurred the expenditure on the construction of the building was entitled to more than one interest in the building when the expenditure was incurred, and
 - (b) one of those interests was reversionary on all the others,
- the reversionary interest is the relevant interest.

496 Interest acquired on completion of construction

For the purpose of determining the relevant interest, a person who—

- (a) incurs expenditure on the construction of a building, and
- (b) is entitled to an interest in the building on or as a result of the completion of the construction,

is treated as having had that interest when the expenditure was incurred.

497 Effect of creation of subordinate interest

An interest does not cease to be the relevant interest merely because of the creation of a lease or other interest to which that interest is subject.

498 Merger of leasehold interest

If the relevant interest is a leasehold interest which is extinguished on—

- (a) being surrendered, or
- (b) the person entitled to it acquiring the interest which is reversionary on it,

the interest into which the leasehold interest merges becomes the relevant interest when the leasehold interest is extinguished.

499 Provisions applying on termination of lease

- (1) This section applies if the relevant interest in relation to expenditure on the construction of a building is a lease.
- (2) If, with the consent of the lessor, the lessee of a building remains in possession after the termination of the lease without a new lease being granted to him, the lease is treated as continuing as long as the lessee remains in possession.

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- (3) If on the termination of the lease 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 of the lease 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 of the lease—
- (a) a new lease is granted to a different lessee, and
 - (b) in connection with the transaction that lessee makes a payment to the former lessee,
- the two leases are treated as if they were the same lease which had been assigned by the former lessee to the new lessee in consideration of the payment.

The relevant interest in the dwelling-house

500 The relevant interest in the dwelling-house

The relevant interest in a dwelling-house comprised in a building is the relevant interest in the building, to the extent that it subsists in the dwelling-house.

CHAPTER 3

QUALIFYING EXPENDITURE

501 Capital expenditure on construction

If—

- (a) capital expenditure has been incurred on the construction of a building which was to be or include a qualifying dwelling-house, and
- (b) the relevant interest in the building has not been sold or, if it has been sold, it has been sold only after the first use of the building,

the capital expenditure is qualifying expenditure.

502 Purchase of unused dwelling-house where developer not involved

(1) This section applies if—

- (a) expenditure has been incurred on the construction of a building which was to be or include a qualifying dwelling-house,
- (b) the relevant interest was sold before the first use of any dwelling-house comprised in the building,
- (c) a capital sum was paid by the purchaser for the relevant interest, and
- (d) section 503 (purchase of dwelling-house sold unused by developer) does not apply.

(2) The lesser of—

- (a) the capital sum paid by the purchaser for the relevant interest, and
- (b) the expenditure incurred on the construction of the building,

is qualifying expenditure.

- (3) The qualifying expenditure is to be treated as having been incurred when the capital sum became payable.
- (4) If the relevant interest was sold more than once before the first use of any dwelling-house comprised in the building, subsection (2) has effect only in relation to the last of those sales.

503 Purchase of dwelling-house sold unused by developer

- (1) This section applies if—
 - (a) expenditure has been incurred by a developer on the construction of a building which was to be or include a qualifying dwelling-house, and
 - (b) the relevant interest was sold by the developer in the course of the development trade before the first use of any dwelling-house comprised in the building.
- (2) If—
 - (a) the sale of the relevant interest by the developer was the only sale of that interest before the first use of any dwelling-house comprised in the building, and
 - (b) a capital sum was paid by the purchaser for the relevant interest, the capital sum is qualifying expenditure.
- (3) If—
 - (a) the sale by the developer was not the only sale before the first use of any dwelling-house comprised in the building, and
 - (b) a capital sum was paid by the purchaser for the relevant interest on the last sale,the lesser of that capital sum and the price paid for the relevant interest on its sale by the developer is qualifying expenditure.
- (4) The qualifying expenditure is treated as having been incurred when the capital sum referred to in subsection (2)(b) or (3)(b) became payable.
- (5) For the purposes of this section—
 - (a) a developer is a person who carries on a trade which consists in whole or in part in the construction of buildings with a view to their sale, and
 - (b) an interest in a building is sold by the developer in the course of the development trade if the developer sells it in the course of the trade or (as the case may be) that part of the trade that consists in the construction of buildings with a view to their sale.

CHAPTER 4

QUALIFYING DWELLING-HOUSES

504 Requirements relating to the landlord

- (1) A dwelling-house is a qualifying dwelling-house only if the landlord is—

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- (a) a company, and
 - (b) the person who—
 - (i) incurred the qualifying expenditure on the building in which the dwelling-house is comprised, or
 - (ii) is for the time being entitled to the relevant interest in the dwelling-house.
- (2) The requirement that the landlord must be a company does not apply in relation to expenditure incurred—
- (a) before 5th May 1983, or
 - (b) on or after that date pursuant to a contract entered into before that date, unless a person other than a company became entitled to the relevant interest on or after that date.

505 Qualifying dwelling-houses: exclusions

- (1) A dwelling-house is not a qualifying dwelling-house if any of the exclusions given below apply.

Exclusion 1

The landlord under the tenancy is—

- (a) a housing association which is approved for the purposes of section 488 of ICTA, or
- (b) a self-build society within the meaning of the Housing Associations Act 1985 (c. 69).

Exclusion 2

The landlord and the tenant are connected persons.

Exclusion 3

The tenant is a director of a company which is or is connected with the landlord.

Exclusion 4

The landlord is a close company and the tenant is, for the purposes of Part XI of ICTA—

- (a) a participator in that company, or
- (b) an associate of such a participator.

Exclusion 5

The tenancy is entered into as part of a mutual arrangement for avoidance.

- (2) In exclusion 5, a “mutual arrangement for avoidance” means an arrangement—
- (a) between the landlords (or owners) of different dwelling-houses, and
 - (b) under which one landlord takes a person as a tenant in circumstances in which, if that person was the tenant of a dwelling-house let by the other landlord, that dwelling-house would not be a qualifying dwelling-house because of exclusion 2, 3 or 4.

506 Dwelling-house ceasing to be qualifying dwelling-house

- (1) If a dwelling-house ceases to be a qualifying dwelling-house otherwise than on a sale of the relevant interest in the dwelling-house, this Part has effect as if—
- (a) the relevant interest in the dwelling-house had been sold at that time, and

- (b) the net proceeds of the sale were equal to the market value of that interest at that time.
- (2) For the purposes of this Part—
- (a) a dwelling-house is not to be regarded as ceasing altogether to be used merely because it falls temporarily out of use, and
 - (b) if, immediately before any period of temporary disuse, a dwelling-house is a qualifying dwelling-house, it is to be regarded as continuing to be a qualifying dwelling-house during the period of temporary disuse.

CHAPTER 5

WRITING-DOWN ALLOWANCES

Entitlement to and calculation of writing-down allowances

507 Entitlement to writing-down allowance

- (1) A person is entitled to a writing-down allowance for a chargeable period if—
- (a) qualifying expenditure has been incurred on a building,
 - (b) that person is or has been an approved body,
 - (c) at the end of that chargeable period the person is entitled to the relevant interest in the building, and
 - (d) at the end of that chargeable period, the building is or includes a qualifying dwelling-house or two or more qualifying dwelling-houses.
- (2) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.

508 Basic rule for calculating amount of allowance

- (1) The basic rule is that the writing-down allowance for a chargeable period is 4% of the qualifying expenditure attributable to the dwelling-house or (as the case may be) each dwelling-house falling within section 507(1)(d).
- (2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year.
- (3) The basic rule does not apply if section 509 applies.

509 Calculation of allowance after sale of relevant interest

- (1) This section applies if—
- (a) the relevant interest in a qualifying dwelling-house is sold, and
 - (b) a balancing adjustment falls to be made under section 513 as a result of the sale.
- (2) If this section applies, the writing-down allowance for any chargeable period ending after the sale is—

$$RQEx \frac{A}{B}$$

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where—

RQE is the amount of the residue of qualifying expenditure attributable to the dwelling-house immediately after the sale,

A is the length of the chargeable period, and

B is the length of the period from the date of the sale to the end of the period of 25 years beginning with the day on which the dwelling-house was first used.

- (3) On any later such sale, the writing-down allowance is further adjusted in accordance with this section.

510 Allowance limited to residue of qualifying expenditure attributable to dwelling-house

- (1) The amount of the writing-down allowance for a chargeable period in respect of a dwelling-house is limited to the residue of qualifying expenditure attributable to it.
- (2) For this purpose the residue is ascertained immediately before writing off the writing-down allowance at the end of the chargeable period.

Interpretation

511 Qualifying expenditure attributable to dwelling-house

- (1) If the building concerned consists of a single qualifying dwelling-house, then, subject to the relevant limit, the whole of the qualifying expenditure is attributable to the dwelling-house.
- (2) If the qualifying dwelling-house forms part of a building, the qualifying expenditure attributable to the dwelling-house is, subject to the relevant limit, the total of—
- (a) the part of the qualifying expenditure properly attributable to that dwelling-house, and
 - (b) if there are common parts of the building, such part of the qualifying expenditure on those common parts—
 - (i) as it is just and reasonable to attribute to that dwelling-house, and
 - (ii) as does not exceed 10% of the part referred to in paragraph (a).
- (3) In this section “the relevant limit” means—
- (a) £60,000, if the dwelling-house is in Greater London, and
 - (b) £40,000, if the dwelling-house is elsewhere.
- (4) In subsection (2) “common parts”, in relation to a building, means common parts of the building which—
- (a) are not intended to be in separate occupation (whether for domestic, commercial or other purposes), but
 - (b) are intended to be of benefit to some or all of the qualifying dwelling-houses included in the building.
- (5) For the purposes of subsection (2), the qualifying expenditure on any common parts of a building is so much of the expenditure on the construction of the building as it is just and reasonable to attribute to those parts.

512 Residue of qualifying expenditure attributable to dwelling-house

- (1) The residue of qualifying expenditure attributable to a dwelling-house is the qualifying expenditure attributable to that dwelling-house that has not yet been written off in accordance with Chapter 7.
- (2) Subsection (1) is subject to section 528 (treatment of demolition costs).

CHAPTER 6

BALANCING ADJUSTMENTS

General

513 When balancing adjustments are made

- (1) A balancing adjustment is made if—
 - (a) qualifying expenditure has been incurred on a building, and
 - (b) a balancing event occurs in relation to a dwelling-house comprised in the building while it is a qualifying dwelling-house.
- (2) A balancing adjustment is either a balancing allowance or a balancing charge and is made for the chargeable period in which the balancing event occurs.
- (3) A balancing allowance or balancing charge is made to or on the person entitled to the relevant interest in the dwelling-house immediately before the balancing event.
- (4) No balancing adjustment is made if the balancing event occurs more than 25 years after the dwelling-house was first used.

514 Balancing events

The following are balancing events in relation to a qualifying dwelling-house—

- (a) the relevant interest in the dwelling-house is sold;
- (b) if the relevant interest in the dwelling-house is a lease, the lease ends otherwise than on the person entitled to it acquiring the interest reversionary on it;
- (c) the dwelling-house is demolished or destroyed;
- (d) the dwelling-house ceases altogether to be used (without being demolished or destroyed).

515 Proceeds from balancing events

- (1) References in this Part to the proceeds from a balancing event are to the amounts received or receivable in connection with the event, as shown in the Table—

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Table

BALANCING EVENTS AND PROCEEDS

<i>1. Balancing event</i>	<i>2. Proceeds from event</i>
1. The sale of the relevant interest.	The net proceeds of the sale.
2. The demolition or destruction of the dwelling-house.	The net amount received for the remains of the dwelling-house, together with— (a) any insurance money received in respect of the demolition or destruction, and (b) any other compensation of any description so received, so far as it consists of capital sums.
3. The dwelling-house ceases altogether to be used.	Any compensation of any description received in respect of the event, so far as it consists of capital sums.

- (2) The amounts referred to in column 2 of the Table are those received or receivable by the person whose entitlement to a balancing allowance or liability to a balancing charge is in question.

*Calculation of balancing adjustments***516 Dwelling-house a qualifying dwelling-house throughout**

- (1) This section provides for balancing adjustments in cases where the dwelling-house was a qualifying dwelling-house for the whole of the relevant period of ownership.
- (2) A balancing allowance is made if—
 - (a) there are no proceeds from the balancing event, or
 - (b) the proceeds from the balancing event are less than the residue of qualifying expenditure attributable to the dwelling-house immediately before the event.
- (3) The amount of the balancing allowance is the amount of—
 - (a) the residue (if there are no proceeds);
 - (b) the difference (if the proceeds are less than the residue).
- (4) A balancing charge is made if the proceeds from the balancing event are more than the residue of qualifying expenditure attributable to the dwelling-house immediately before the event.
- (5) The amount of the balancing charge is the amount of the difference.

517 Dwelling-house not a qualifying dwelling-house throughout

- (1) This section provides for balancing adjustments where the building was not a qualifying dwelling-house for a part of the relevant period of ownership.
- (2) A balancing allowance is made if—

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- (a) the proceeds from the balancing event are less than the starting expenditure attributable to the dwelling-house, and
 - (b) the total amount of the relevant allowances in respect of that expenditure is less than the adjusted net cost of the dwelling-house.
- (3) The amount of the balancing allowance is the amount of the difference between the adjusted net cost of the dwelling-house and the total amount of the relevant allowances.
- (4) A balancing charge is made if the proceeds from the balancing event are equal to or more than the starting expenditure attributable to the dwelling-house.
- (5) The amount of the balancing charge is equal to the total amount of the relevant allowances.
- (6) A balancing charge is also made if—
- (a) the proceeds from the balancing event are less than the starting expenditure attributable to the dwelling-house, and
 - (b) the total amount of the relevant allowances in respect of that expenditure is more than the adjusted net cost in relation to the dwelling-house.
- (7) The amount of the balancing charge is the amount of the difference between the total amount of those allowances and the adjusted net cost.
- (8) “The relevant allowances” means—
- (a) any initial allowance under paragraph 1 of Schedule 12 to FA 1982, and
 - (b) any writing-down allowance made for a chargeable period ending on or before the date of the balancing event in question.

518 Overall limit on balancing charge

- (1) The amount of a balancing charge made on a person in respect of any qualifying expenditure attributable to a dwelling-house must not exceed the total amount of the relevant allowances made to that person.
- (2) “The relevant allowances” has the meaning given by section 517(8).

519 Recovery of old initial allowances made on incorrect assumptions

- (1) This section applies if—
- (a) an initial allowance has been made under paragraph 1 of Schedule 12 to FA 1982 in respect of expenditure relating to a dwelling-house, and
 - (b) when the dwelling-house comes to be used, it is not a qualifying dwelling-house.
- (2) All such assessments and adjustments of assessments are to be made as are necessary to secure that, despite the repeal of Schedule 12 to FA 1982, effect is given to the prohibition in paragraph 1(3) of that Schedule (on the making of initial allowances in respect of dwelling-houses which are not qualifying dwelling-houses).

Meaning of “the relevant period of ownership” etc.

520 The relevant period of ownership

The relevant period of ownership is the period beginning—

- (a) with the day on which the dwelling-house was first used for any purpose, or
- (b) if the relevant interest in the dwelling-house has been sold after that day, with the day following that on which the sale (or the last such sale) occurred,

and ending with the day on which the balancing event occurs.

521 Starting expenditure

- (1) This section gives the starting expenditure attributable to a dwelling-house for the purposes of section 517.
- (2) If the person to or on whom the balancing allowance or balancing charge falls to be made is the person who incurred the qualifying expenditure attributable to the dwelling-house, that expenditure is the starting expenditure.
- (3) Otherwise, the starting expenditure is the residue of qualifying expenditure attributable to the dwelling-house at the beginning of the relevant period of ownership.
- (4) If section 528 (treatment of demolition costs) applies, the starting expenditure is increased by an amount equal to the net cost of the demolition.

522 Adjusted net cost

The amount of the adjusted net cost in relation to a dwelling-house is—

$$(S - P) \times \frac{I}{R}$$

where—

- S is the starting expenditure attributable to the dwelling-house,
- P is the amount of any proceeds from the balancing event,
- I is the number of days in the relevant period of ownership on which the dwelling-house was a qualifying dwelling-house, and
- R is the number of days in the whole of the relevant period of ownership.

CHAPTER 7

WRITING OFF QUALIFYING EXPENDITURE ATTRIBUTABLE TO DWELLING-HOUSE

523 Introduction

For the purposes of this Part qualifying expenditure attributable to a dwelling-house is written off to the extent and at the times specified in this Chapter.

524 Writing off initial allowances

If an initial allowance was made under paragraph 1 of Schedule 12 to FA 1982 in respect of a qualifying dwelling-house, the amount of the allowance is written off at the time of the first use of the dwelling-house.

525 Writing off writing-down allowances

- (1) If a writing-down allowance is made in respect of qualifying expenditure attributable to a dwelling-house, the amount of the allowance is written off at the end of the chargeable period for which the allowance is made.
- (2) If a balancing event occurs at the end of a chargeable period, the amount written off under subsection (1) is to be taken into account in calculating the residue of qualifying expenditure immediately before the event to determine what balancing adjustment (if any) is to be made.

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

- (1) This section applies if for any period or periods between—
 - (a) the time when the whole or a part of the building was first used for any purpose, and
 - (b) the time when the residue of qualifying expenditure attributable to a dwelling-house falls to be ascertained,the building or part has not been a qualifying dwelling-house.
- (2) An amount equal to the notional writing-down allowances for the period or periods is written off at the time when the residue falls to be ascertained.
- (3) The notional writing-down allowances are the allowances that would have been made for the period or periods in question (if the building or part had remained a qualifying dwelling-house), at such rate or rates as would have been appropriate, having regard to any relevant sale.
- (4) In subsection (3) “relevant sale” means a sale of the relevant interest as a result of which a balancing adjustment falls to be made under section 513.

527 Writing off or increase of expenditure where balancing adjustment made

- (1) This section applies if the relevant interest in the dwelling-house is sold.
- (2) If a balancing allowance is made, the amount by which the residue of qualifying expenditure attributable to the dwelling-house before the balancing event exceeds the net proceeds from the event is written off at the time of the event.
- (3) If a balancing charge is made, the amount of the residue of qualifying expenditure attributable to the dwelling-house is increased at the time of the balancing event by the amount of the charge.
- (4) But if the balancing charge is made under section 517(6) (difference between relevant allowances and adjusted net cost), the residue of qualifying expenditure attributable to the dwelling-house immediately after the balancing event is limited to the net proceeds from the event.

528 Treatment of demolition costs

- (1) This section applies if—
 - (a) a dwelling-house is demolished, and
 - (b) the person to or on whom any balancing allowance or balancing charge is or might be made is the person incurring the cost of the demolition.
- (2) The net cost of the demolition is added to the residue of qualifying expenditure attributable to the qualifying dwelling-house immediately before the demolition.
- (3) “The net cost of the demolition” means the amount, if any, by which the cost of the demolition exceeds any money received for the remains of the property.
- (4) If this section applies, the net cost of the demolition is not treated for the purposes of this Part as expenditure on any other property replacing the property demolished.

CHAPTER 8

SUPPLEMENTARY PROVISIONS

529 Giving effect to allowances and charges

- (1) If a person who is entitled or liable to an allowance or charge for a chargeable period was carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect in calculating the profits of that business, by treating—
 - (a) the allowance as an expense of that business, and
 - (b) the charge as a receipt of that business.
- (2) If a person who is entitled or liable to an allowance or charge for a chargeable period was not carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect by treating him as if he had been carrying on such a business in that period and as if—
 - (a) the allowance were an expense of that business, and
 - (b) the charge were a receipt of that business.

530 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 paid 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 Part requiring an apportionment of the proceeds of a balancing event.

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

- (1) In this Part “dwelling-house” has the same meaning as in the Rent Act 1977 (c. 42).
- (2) 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).
- (3) In the application of this Part to Scotland—
 - (a) “leasehold interest” 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.