



# Finance Act 2003

## 2003 CHAPTER 14

### PART 4

#### STAMP DUTY LAND TAX

##### *Introduction*

#### **42 The tax**

- (1) A tax (to be known as “stamp duty land tax”) shall be charged in accordance with this Part on land transactions.
- (2) The tax is chargeable—
  - (a) whether or not there is any instrument effecting the transaction,
  - (b) if there is such an instrument, whether or not it is executed in the United Kingdom, and
  - (c) whether or not any party to the transaction is present, or resident, in the United Kingdom.
- (3) The tax is under the care and management of the Commissioners of Inland Revenue (referred to in this Part as “the Board”).

#### **Commencement Information**

- II** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

##### *Land transactions*

#### **43 Land transactions**

- (1) In this Part a “land transaction” means any acquisition of a chargeable interest. As to the meaning of “chargeable interest” see section 48.

*Status: Point in time view as at 07/04/2004.*

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- (2) Except as otherwise provided, this Part applies however the acquisition is effected, whether by act of the parties, by order of a court or other authority, by or under any statutory provision or by operation of law.
- (3) For the purposes of this Part—
- (a) the creation of a chargeable interest is—
    - (i) an acquisition by the person becoming entitled to the interest created, and
    - (ii) a disposal by the person whose interest or right is subject to the interest created;
  - (b) the surrender or release of a chargeable interest is—
    - (i) an acquisition of that interest by any person whose interest or right is benefitted or enlarged by the transaction, and
    - (ii) a disposal by the person ceasing to be entitled to that interest; and
  - (c) the variation of a chargeable interest is—
    - (i) an acquisition of a chargeable interest by the person benefitting from the variation, and
    - (ii) a disposal of a chargeable interest by the person whose interest is subject to or limited by the variation.
- (4) References in this Part to the “purchaser” and “vendor”, in relation to a land transaction, are to the person acquiring and the person disposing of the subject-matter of the transaction.
- These expressions apply even if there is no consideration given for the transaction.
- (5) A person is not treated as a purchaser unless he has given consideration for, or is a party to, the transaction.
- (6) References in this Part to the subject-matter of a land transaction are to the chargeable interest acquired (the “main subject-matter”), together with any interest or right appurtenant or pertaining to it that is acquired with it.

**Commencement Information**

**I2** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**44 Contract and conveyance**

- (1) This section applies where a contract for a land transaction is entered into under which the transaction is to be completed by a conveyance.
- (2) A person is not regarded as entering into a land transaction by reason of entering into the contract, but the following provisions have effect.
- (3) If the transaction is completed without previously having been substantially performed, the contract and the transaction effected on completion are treated as parts of a single land transaction. In this case the effective date of the transaction is the date of completion.
- (4) If the contract is substantially performed without having been completed, the contract is treated as if it were itself the transaction provided for in the contract.

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In this case the effective date of the transaction is when the contract is substantially performed.

- (5) A contract is “substantially performed” when—
- (a) the purchaser [<sup>F1</sup>, or a person connected with the purchaser,] takes possession of the whole, or substantially the whole, of the subject-matter of the contract, or
  - (b) a substantial amount of the consideration is paid or provided.
- (6) For the purposes of subsection (5)(a)—
- [<sup>F2</sup>(a) possession includes receipt of rents and profits or the right to receive them, and]
  - (b) it is immaterial whether [<sup>F3</sup>possession is taken] under the contract or under a licence or lease of a temporary character.
- (7) For the purposes of subsection (5)(b) a substantial amount of the consideration is paid or provided—
- (a) if none of the consideration is rent, where the whole or substantially the whole of the consideration is paid or provided;
  - (b) if the only consideration is rent, when the first payment of rent is made;
  - (c) if the consideration includes both rent and other consideration, when—
    - (i) the whole or substantially the whole of the consideration other than rent is paid or provided, or
    - (ii) the first payment of rent is made.
- (8) Where subsection (4) applies and the contract is subsequently completed by a conveyance—
- (a) both the contract and the transaction effected on completion are notifiable transactions, and
  - (b) tax is chargeable on the latter transaction to the extent (if any) that the amount of tax chargeable on it is greater than the amount of tax chargeable on the contract.
- (9) Where subsection (4) applies and the contract is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of that subsection shall (to that extent) be repaid by the Inland Revenue.
- Repayment must be claimed by amendment of the land transaction return made in respect of the contract.
- (10) In this section—
- (a) references to completion are to completion of the land transaction proposed, between the same parties, in substantial conformity with the contract; and
  - (b) “contract” includes any agreement and “conveyance” includes any instrument.
- [<sup>F4</sup>(11) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this section.]

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### Textual Amendments

- F1** Words in s. 44(5)(a) inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, Sch. para. 1(1)(2)
- F2** S. 44(6)(a) substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, Sch. para. 1(1)(3)(a)
- F3** Words in s. 44(6)(b) substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, Sch. para. 1(1)(3)(b)
- F4** S. 44(11) added (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, Sch. para. 1(1)(4)

### Commencement Information

- I3** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

## 45 Contract and conveyance: effect of transfer of rights

- (1) This section applies where—
- a contract for a land transaction (“the original contract”) is entered into under which the transaction is to be completed by a conveyance, and
  - there is an assignment, subsale or other transaction (relating to the whole or part of the subject-matter of the original contract) as a result of which a person other than the original purchaser becomes entitled to call for a conveyance to him.

References in the following provisions of this section to a transfer of rights are to any such assignment, subsale or other transaction.

- (2) The transferee is not regarded as entering into a land transaction by reason of the transfer of rights, but section 44 (contract and conveyance) has effect in accordance with the following provisions of this section.
- (3) That section applies as if there were a contract for a land transaction (a “secondary contract”) under which—
- the transferee is the purchaser, and
  - the consideration for the transaction is—
    - so much of the consideration under the original contract as is referable to the subject-matter of the transfer of rights and is to be given (directly or indirectly) by the transferee or a person connected with him, and
    - the consideration given for the transfer of rights.

The substantial performance or completion of the original contract at the same time as, and in connection with, the substantial performance or completion of the secondary contract shall be disregarded.

- (4) Where there are successive transfers of rights, subsection (3) has effect in relation to each of them.

The substantial performance or completion of the secondary contract arising from an earlier transfer of rights at the same time as, and in connection with, the substantial performance or completion of the secondary contract arising from a subsequent transfer of rights shall be disregarded.

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- (5) Where a transfer of rights relates to part only of the subject-matter of the original contract, subsection (8)(b) of section 44 (restriction of charge to tax on subsequent conveyance) has effect as if the reference to the amount of tax chargeable on that contract were a reference to an appropriate proportion of that amount.
- (6) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (3)(b)(i).
- (7) In this section “contract” includes any agreement and “conveyance” includes any instrument.

#### Commencement Information

- I4** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)
- I5** S. 45(6) has effect as specified by [The Stamp Duty Land Tax \(Appointment of the Implementation Date\) Order 2003 \(S.I. 2003/2899\)](#), [art. 2](#)

## 46 Options and rights of pre-emption

- (1) The acquisition of—
  - (a) an option binding the grantor to enter into a land transaction, or
  - (b) a right of pre-emption preventing the grantor from entering into, or restricting the right of the grantor to enter into, a land transaction,is a land transaction distinct from any land transaction resulting from the exercise of the option or right.  
They may be “linked transactions” (see section 108).
- (2) The reference in subsection (1)(a) to an option binding the grantor to enter into a land transaction includes an option requiring the grantor either to enter into a land transaction or to discharge his obligations under the option in some other way.
- (3) The effective date of the transaction in the case of the acquisition of an option or right such as is mentioned in subsection (1) is when the option or right is acquired (as opposed to when it becomes exercisable).
- (4) Nothing in this section applies to so much of an option or right of pre-emption as constitutes or forms part of a land transaction apart from this section.

#### Commencement Information

- I6** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 47 Exchanges

- (1) Where a land transaction is entered into by the purchaser (alone or jointly) wholly or partly in consideration of another land transaction being entered into by him (alone or jointly) as vendor, this Part applies in relation to each transaction as if each were distinct and separate from the other.
- (2) A transaction is treated for the purposes of this Part as entered into by the purchaser wholly or partly in consideration of another land transaction being entered into by him

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as vendor in any case where an obligation to give consideration for a land transaction that a person enters into as purchaser is met wholly or partly by way of that person entering into another transaction as vendor.

- (3) As to the amount of the chargeable consideration in the case of exchanges and similar transactions, see—

paragraphs 5 and 6 of Schedule 4 (exchanges, partition etc),<sup>F5</sup> ...

[<sup>F6</sup>paragraph 17 of that Schedule (arrangements involving public or educational bodies), and]

<sup>F5</sup> ...

#### Textual Amendments

- F5** Words in s. 47(3) omitted (1.12.2003) by virtue of [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 3(5)**
- F6** S. 47(3) entry inserted (7.4.2004) by [The Stamp Duty Land Tax \(Amendment of Part 4 of the Finance Act 2003\) Regulations 2004 \(S.I. 2004/1069\)](#), regs. 1, **3(b)**

#### Commencement Information

- I7** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### *Chargeable interests, chargeable transactions and chargeable consideration*

## 48 Chargeable interests

- (1) In this Part “chargeable interest” means—
- an estate, interest, right or power in or over land in the United Kingdom, or
  - the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power,
- other than an exempt interest.
- (2) The following are exempt interests—
- any security interest;
  - a licence to use or occupy land;
  - in England and Wales or Northern Ireland—
    - a tenancy at will;
    - an advowson, franchise or manor.
- (3) In subsection (2)—
- “security interest” means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation; and
  - “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls.
- (4) In the application of this Part in Scotland the reference in subsection (3)(a) to a rentcharge shall be read as a reference to a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5).
- (5) The Treasury may by regulations provide that any other description of interest or right in relation to land in the United Kingdom is an exempt interest.

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- (6) The regulations may contain such supplementary, incidental and transitional provision as appears to the Treasury to be appropriate.

**Commencement Information**

**I8** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**49 Chargeable transactions**

- (1) A land transaction is a chargeable transaction if it is not a transaction that is exempt from charge.
- (2) Schedule 3 provides for certain transactions to be exempt from charge.
- Other transactions are exempt from charge under other provisions of this Part.

**Commencement Information**

**I9** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**50 Chargeable consideration**

- (1) Schedule 4 makes provision as to the chargeable consideration for a transaction.
- (2) The Treasury may by regulations amend or repeal the provisions of this Part relating to chargeable consideration and make such other provision as appears to them appropriate with respect to—
- (a) what is to count as chargeable consideration, or
  - (b) the determination of the amount of chargeable consideration.
- (3) The regulations may make different provision in relation to different descriptions of transaction or consideration and different circumstances.

**Commencement Information**

**I10** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**51 Contingent, uncertain or unascertained consideration**

- (1) Where the whole or part of the chargeable consideration for a transaction is contingent, the amount or value of the consideration shall be determined for the purposes of this Part on the assumption that the outcome of the contingency will be such that the consideration is payable or, as the case may be, does not cease to be payable.
- (2) Where the whole or part of the chargeable consideration for a transaction is uncertain or unascertained, its amount or value shall be determined for the purposes of this Part on the basis of a reasonable estimate.
- (3) In this Part—
- “contingent”, in relation to consideration, means—

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- (a) that it is to be paid or provided only if some uncertain future event occurs, or
  - (b) that it is to cease to be paid or provided if some uncertain future event occurs; and
- “uncertain”, in relation to consideration, means that its amount or value depends on uncertain future events.

- (4) This section has effect subject to—
- section 80 (adjustment where contingency ceases or consideration is ascertained), and
  - section 90 (application to defer payment in case of contingent or uncertain consideration).

[<sup>F7</sup>(5) This section applies in relation to chargeable consideration consisting of rent only to the extent that it is applied by paragraph 7 of Schedule 17A.]

#### Textual Amendments

**F7** S. 51(5) added (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(3)**

#### Commencement Information

**I11** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 52 Annuities etc: chargeable consideration limited to twelve years' payments

- (1) This section applies to so much of the chargeable consideration for a land transaction as consists of an annuity payable—
- (a) for life, or
  - (b) in perpetuity, or
  - (c) for an indefinite period, or
  - (d) for a definite period exceeding twelve years.

(2) For the purposes of this Part the consideration to be taken into account is limited to twelve years' annual payments.

(3) Where the amount payable varies, or may vary, from year to year, the twelve highest annual payments shall be taken.

No account shall be taken for the purposes of this Schedule of any provision for adjustment of the amount payable in line with the retail price index.

(4) References in this section to annual payments are to payments in respect of each successive period of twelve months beginning with the effective date of the transaction.

(5) For the purposes of this section the amount or value of any payment shall be determined (if necessary) in accordance with section 51 (contingent, uncertain or unascertained consideration).

(6) References in this section to an annuity include any consideration (other than rent) that falls to be paid or provided periodically. References to payment shall be read accordingly.



*Status: Point in time view as at 07/04/2004.*

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- (7) Where this section applies—
- (a) section 80 (adjustment where contingency ceases or consideration is ascertained) does not apply, and
  - (b) no application may be made under section 90 (application to defer payment in case of contingent or uncertain consideration).

#### Commencement Information

**I12** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 53 Deemed market value where transaction involves connected company

- (1) Where the purchaser is a company and—
- (a) the vendor is connected with the purchaser, or
  - (b) some or all of the consideration for the transaction consists of the issue or transfer of shares in a company with which the vendor is connected,
- the chargeable consideration for the transaction shall be taken to be not less than the market value of the subject matter of the transaction as at the effective date of the transaction.
- (2) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this section.
- (3) In this section—
- “company” means any body corporate;
  - “shares” includes stock and the reference to shares in a company includes a reference to securities issued by a company.
- (4) Where this section applies paragraph 1 of Schedule 3 (exemption of transactions for which there is no chargeable consideration) does not apply.
- But this section has effect subject to any other provision affording exemption or relief from stamp duty land tax.
- (5) This section is subject to the exceptions provided for in section 54.

#### Commencement Information

**I13** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**I14** S. 53(2) has effect as specified by [The Stamp Duty Land Tax \(Appointment of the Implementation Date\) Order 2003 \(S.I. 2003/2899\)](#), [art. 2](#)

### 54 Exceptions from deemed market value rule

- (1) Section 53 (chargeable consideration: transaction with connected company) does not apply in the following cases.
- In the following provisions “the company” means the company that is the purchaser in relation to the transaction in question.

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- (2) Case 1 is where immediately after the transaction the company holds the property as trustee in the course of a business carried on by it that consists of or includes the management of trusts.
- (3) Case 2 is where—
- (a) immediately after the transaction the company holds the property as trustee, and
  - (b) the vendor is connected with the company only because of section 839(3) of the Taxes Act 1988.
- (4) Case 3 is where—
- (a) the vendor is a company and the transaction is, or is part of, a distribution of the assets of that company (whether or not in connection with its winding up), and
  - (b) it is not the case that—
    - (i) the subject-matter of the transaction, or
    - (ii) an interest from which that interest is derived,
 has, within the period of three years immediately preceding the effective date of the transaction, been the subject of a transaction in respect of which group relief was claimed by the vendor.

#### **Commencement Information**

**I15** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### *Amount of tax chargeable*

#### **55 Amount of tax chargeable: general**

- (1) The amount of tax chargeable in respect of a chargeable transaction is a percentage of the chargeable consideration for the transaction.
- (2) That percentage is determined by reference to whether the relevant land—
- (a) consists entirely of residential property (in which case Table A below applies), or
  - (b) consists of or includes land that is not residential property (in which case Table B below applies),
- and, in either case, by reference to the amount of the relevant consideration.

TABLE A: RESIDENTIAL

<i>Relevant consideration</i>	<i>Percentage</i>
Not more than £60,000	0%
More than £60,000 but not more than £250,000	1%
More than £250,000 but not more than £500,000	3%

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More than £500,000	4%
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TABLE B: NON-RESIDENTIAL OR MIXED

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<i>Relevant consideration</i>	<i>Percentage</i>
Not more than £150,000	0%
More than £150,000 but not more than £250,000	1%
More than £250,000 but not more than £500,000	3%
More than £500,000	4%

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- (3) For the purposes of subsection (2)—
- (a) the relevant land is the land an interest in which is the main subject-matter of the transaction, and
  - (b) the relevant consideration is the chargeable consideration for the transaction, subject as follows.
- (4) If the transaction in question is one of a number of linked transactions—
- (a) the relevant land is any land an interest in which is the main subject-matter of any of those transactions, and
  - (b) the relevant consideration is the total of the chargeable consideration for all those transactions.
- (5) This section has effect subject to—
- section 74 (collective enfranchisement by leaseholders), and
  - section 75 (crofting community right to buy),
- (which provide for the rate of tax to be determined by reference to a fraction of the relevant consideration).
- (6) In the case of a transaction for which the whole or part of the chargeable consideration is rent this section has effect subject to section 56 and Schedule 5 (amount of tax chargeable: rent).
- (7) References in this Part to the “rate of tax” are to the percentage determined under this section.

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**Commencement Information**

**I16** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

**56 Amount of tax chargeable: rent**

Schedule 5 provides for the calculation of the tax chargeable where the chargeable consideration for a transaction consists of or includes rent.

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#### Commencement Information

**I17** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### Reliefs

#### 57 Disadvantaged areas relief

- (1) Schedule 6 provides for relief in the case of transactions relating to land in a disadvantaged area.
- (2) In that Schedule—
  - Part 1 defines “disadvantaged area”,
  - Part 2 relates to transactions where the land to which the transaction relates is wholly situated in a disadvantaged area,
  - Part 3 relates to transactions where the land to which the transaction relates is partly situated in a disadvantaged area, and
  - Part 4 contains supplementary provisions.

#### Commencement Information

**I18** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### [<sup>F8</sup>57A Sale and leaseback arrangements

- (1) The leaseback element of a sale and leaseback arrangement is exempt from charge if the qualifying conditions specified below are met.
- (2) A “sale and leaseback” arrangement means an arrangement under which—
  - (a) A transfers to B a major interest in land (the “sale”), and
  - (b) out of that interest B grants a lease to A (the “leaseback”).
- (3) The qualifying conditions are—
  - (a) that the property is not residential property,
  - (b) that the consideration for the sale does not consist of or include anything other than the payment of money or the assumption, satisfaction or release of a debt, and
  - (c) that the leaseback is of the same premises that were the subject of the sale.
- (4) Where the leaseback element of a sale and leaseback arrangement qualifies for relief under this section (whether or not relief is claimed), the chargeable consideration for the sale shall be taken to be not less than the market value of the interest transferred (calculated as if it were not part of a sale and leaseback arrangement).
- (5) In this section—
 

“debt” means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date; and

“money” means money in sterling or another currency.]

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**Textual Amendments**

- F8** S. 57A inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 2**

**<sup>F9</sup>58 Relief for certain exchanges of residential property**

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**Textual Amendments**

- F9** S. 58A substituted (1.12.2003) for ss. 58 and 59 by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 3(1)**

**[<sup>F9</sup>58A Relief for certain acquisitions of residential property**

Schedule 6A provides for relief in the case of certain acquisitions of residential property.]

**Textual Amendments**

- F9** S. 58A substituted (1.12.2003) for ss. 58 and 59 by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 3(1)**

**<sup>F9</sup>59 Relocation relief**

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**Textual Amendments**

- F9** S. 58A substituted (1.12.2003) for ss. 58 and 59 by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 3(1)**

**60 Compulsory purchase facilitating development**

- (1) A compulsory purchase facilitating development is exempt from charge.
- (2) In this section “compulsory purchase facilitating development” means—
  - (a) in relation to England and Wales or Scotland, the acquisition by a person of a chargeable interest in respect of which that person has made a compulsory purchase order for the purpose of facilitating development by another person;
  - (b) in relation to Northern Ireland, the acquisition by a person of a chargeable interest by means of a vesting order made for the purpose of facilitating development by a person other than the person who acquires the interest.
- (3) For the purposes of subsection (2)(a) it does not matter how the acquisition is effected (so that provision applies where the acquisition is effected by agreement).

*Status: Point in time view as at 07/04/2004.*

*Changes to legislation: Finance Act 2003, Part 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In subsection (2)(b) a “vesting order” means an order made under any statutory provision to authorise the acquisition of land otherwise than by agreement.
- (5) In this section “development”—
- (a) in relation to England and Wales, has the same meaning as in the Town and Country Planning Act 1990 (c. 8) (see section 55 of that Act);
  - (b) in relation to Scotland, has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 26 of that Act); and
  - (c) in relation to Northern Ireland, has the same meaning as in the Planning (Northern Ireland) Order 1991 (1991/1220 (N.I. 11)) (see Article 11 of that Order).

#### **Commencement Information**

**I19** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **61 Compliance with planning obligations**

- (1) A land transaction that is entered into in order to comply with a planning obligation or a modification of a planning obligation is exempt from charge if—
- (a) the planning obligation or modification is enforceable against the vendor,
  - (b) the purchaser is a public authority, and
  - (c) the transaction takes place within the period of five years beginning with the date on which the planning obligation was entered into or modified.
- (2) In this section—
- (a) in relation to England and Wales—
 

“planning obligation” means either of the following—

    - (a) a planning obligation within the meaning of section 106 of the Town and Country Planning Act 1990 that is entered into in accordance with subsection (9) of that section, or
    - (b) a planning obligation within the meaning of section 299A of that Act that is entered into in accordance with subsection (2) of that section; and

“modification” of a planning obligation means modification as mentioned in section 106A(1) of that Act;
  - (b) in relation to Scotland, “planning obligation” means an agreement made under section 75 or section 246 of the Town and Country Planning (Scotland) Act 1997;
  - (c) in relation to Northern Ireland—
 

“planning obligation” means a planning agreement within the meaning of Article 40 of the Planning (Northern Ireland) Order 1991 that is entered into in accordance with paragraph (10) of that Article, and

“modification” of a planning obligation means modification as mentioned in Article 40A(1) of that Order.
- (3) The following are public authorities for the purposes of subsection (1)(b)—

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*Status: Point in time view as at 07/04/2004.*

*Changes to legislation: Finance Act 2003, Part 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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A Minister of the Crown or government department

The Scottish Ministers

A Northern Ireland department

The National Assembly for Wales

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***Local government: England***

A county or district council constituted under section 2 of the Local Government Act 1972 (c. 70)

The council of a London borough

The Common Council of the City of London

The Greater London Authority

Transport for London

The Council of the Isles of Scilly

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***Local government: Wales***

A county or county borough council constituted under section 21 of the Local Government Act 1972

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***Local government: Scotland***

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

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***Local government: Northern Ireland***

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

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***Health: England and Wales***

A Strategic Health Authority or Health Authority established under section 8 of the National Health Service Act 1977 (c. 49)

A Special Health Authority established under section 11 of that Act

A Primary Care Trust established under section 16A of that Act

A Local Health Board established under section 16BA of that Act

A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19)

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***Health: Scotland***

The Common Services Agency established under section 10(1) of the National Health Service (Scotland) Act 1978 (c. 29)

A Health Board established under section 2(1)(a) of that Act

A National Health Service Trust established under section 12A(1) of that Act

A Special Health Board established under section 2(1)(b) of that Act

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*Status: Point in time view as at 07/04/2004.*

*Changes to legislation: Finance Act 2003, Part 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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### ***Health: Northern Ireland***

A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

A Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

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### ***Other planning authorities***

Any other authority that—

- (a) is a local planning authority within the meaning of the Town and Country Planning Act 1990 (c. 8), or
  - (b) is the planning authority for any of the purposes of the planning Acts within the meaning of the Town and Country Planning (Scotland) Act 1997 (c. 8).
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### ***Prescribed persons***

A person prescribed for the purposes of this section by Treasury order

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#### **Commencement Information**

**I20** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

## **62 Group relief and reconstruction or acquisition relief**

- (1) Schedule 7 provides for relief from stamp duty land tax.
- (2) In that Schedule—
  - Part 1 makes provision for group relief,
  - Part 2 makes provision for reconstruction and acquisition reliefs.
- (3) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

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#### **Commencement Information**

**I21** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

## **63 Demutualisation of insurance company**

- (1) A land transaction is exempt from charge if it is entered into for the purposes of or in connection with a qualifying transfer of the whole or part of the business of a mutual insurance company (“the mutual”) to a company that has share capital (“the acquiring company”).
- (2) A transfer is a qualifying transfer if—
  - (a) it is a transfer of business consisting of the effecting or carrying out of contracts of insurance and takes place under an insurance business transfer scheme, or



*Status: Point in time view as at 07/04/2004.*

*Changes to legislation: Finance Act 2003, Part 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) it is a transfer of business of a general insurance company carried on through a permanent establishment in the United Kingdom and takes place in accordance with authorisation granted outside the United Kingdom for the purposes of—
- (i) Article 14 of the life assurance Directive, or
  - (ii) Article 12 of the 3rd non-life insurance Directive,
- and, in either case, the requirements of subsections (3) and (4) are met in relation to the shares of a company (“the issuing company”) which is either the acquiring company or a company of which the acquiring company is a wholly-owned subsidiary.
- (3) Shares in the issuing company must be offered, under the scheme, to at least 90% of the persons who are members of the mutual immediately before the transfer.
- (4) Under the scheme all of the shares in the issuing company that will be in issue immediately after the transfer has been made, other than shares that are to be or have been issued pursuant to an offer to the public, must be offered to the persons who (at the time of the offer) are—
- (a) members of the mutual,
  - (b) persons who are entitled to become members of the mutual, or
  - (c) employees, former employees or pensioners of—
    - (i) the mutual, or
    - (ii) a wholly-owned subsidiary of the mutual.
- (5) The Treasury may by regulations—
- (a) amend subsection (3) by substituting a lower percentage for the percentage mentioned there;
  - (b) provide that any or all of the references in subsections (3) and (4) to members shall be construed as references to members of a class specified in the regulations.
- Regulations under paragraph (b) may make different provision for different cases.
- (6) For the purposes of this section a company is the wholly-owned subsidiary of another company (“the parent”) if the company has no members except the parent and the parent’s wholly-owned subsidiaries or persons acting on behalf of the parent or the parent’s wholly-owned subsidiaries.
- (7) In this section—

“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

“employee”, in relation to a mutual insurance company or its wholly-owned subsidiary, includes any officer or director of the company or subsidiary and any other person taking part in the management of the affairs of the company or subsidiary;

“general insurance company” means a company that has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8), or paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to effect or carry out contracts of insurance;

“insurance company” means a company that carries on the business of effecting or carrying out contracts of insurance;

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“insurance business transfer scheme” has the same meaning as in Part 7 of the Financial Services and Markets Act 2000;

“the life assurance Directive” means the Council Directive of 5th November 2002 concerning life assurance (No.2002/83/EC);

“mutual insurance company” means an insurance company carrying on business without having any share capital;

“the 3rd non-life insurance Directive” means the Council Directive of 18th June 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life insurance and amending Directives 73/239/EEC and 88/357/EEC (No. 92/49/EEC);

“pensioner”, in relation to a mutual insurance company or its wholly-owned subsidiary, means a person entitled (whether presently or prospectively) to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company or subsidiary.

#### Commencement Information

**I22** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 64 Demutualisation of building society

A land transaction effected by section 97(6) or (7) of the Building Societies Act 1986 (c. 53) (transfer of building society’s business to a commercial company) is exempt from charge.

#### Commencement Information

**I23** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## [<sup>F10</sup>64A Initial transfer of assets to trustees of unit trust scheme

- (1) The acquisition of a chargeable interest by trustees of a unit trust scheme is exempt from charge if the following conditions are met.
- (2) The conditions are that—
  - (a) immediately before the acquisition—
    - (i) there were no assets held by the trustees for the purposes of the scheme, and
    - (ii) there were no units of the scheme in issue,
  - (b) the only consideration for the acquisition is the issue of units in the scheme to the vendor, and
  - (c) immediately after the acquisition the vendor is the only unit holder of the scheme.]

#### Textual Amendments

**F10** S. 64A inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 4**

*Status: Point in time view as at 07/04/2004.*

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## 65 Incorporation of limited liability partnership

- (1) A transaction by which a chargeable interest is transferred by a person (“the transferor”) to a limited liability partnership in connection with its incorporation is exempt from charge if the following three conditions are met.
- (2) The first condition is that the effective date of the transaction is not more than one year after the date of incorporation of the limited liability partnership.
- (3) The second condition is that at the relevant time the transferor—
  - (a) is a partner in a partnership comprised of all the persons who are or are to be members of the limited liability partnership (and no-one else), or
  - (b) holds the interest transferred as nominee or bare trustee for one or more of the partners in such a partnership.
- (4) The third condition is that—
  - (a) the proportions of the interest transferred to which the persons mentioned in subsection (3)(a) are entitled immediately after the transfer are the same as those to which they were entitled at the relevant time, or
  - (b) none of the differences in those proportions has arisen as part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to any duty or tax.
- (5) In this section “the relevant time” means—
  - (a) where the transferor acquired the interest after the incorporation of the limited liability partnership, immediately after he acquired it, and
  - (b) in any other case, immediately before its incorporation.
- (6) In this section “limited liability partnership” means a limited liability partnership formed under the Limited Liability Partnerships Act 2000 (c. 12) or the Limited Liability Partnerships Act (Northern Ireland) 2002 (c. 12 (N. I.)).

### Commencement Information

**I24** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 66 Transfers involving public bodies

- (1) A land transaction entered into on, or in consequence of, or in connection with, a reorganisation effected by or under a statutory provision is exempt from charge if the purchaser and vendor are both public bodies.
- (2) The Treasury may by order provide that a land transaction that is not entered into as mentioned in subsection (1) is exempt from charge if—
  - (a) the transaction is effected by or under a prescribed statutory provision, and
  - (b) either the purchaser or the vendor is a public body.

In this subsection “prescribed” means prescribed in an order made under this subsection.
- (3) A “reorganisation” means changes involving—
  - (a) the establishment, reform or abolition of one or more public bodies,
  - (b) the creation, alteration or abolition of functions to be discharged or discharged by one or more public bodies, or

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*Status: Point in time view as at 07/04/2004.*

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- (c) the transfer of functions from one public body to another.
- (4) The following are public bodies for the purposes of this section—

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***Government, Parliament etc***

A Minister of the Crown  
The Scottish Ministers  
A Northern Ireland department  
The National Assembly for Wales  
The Corporate Officer of the House of Lords  
The Corporate Officer of the House of Commons  
The Scottish Parliamentary Corporate Body  
The Northern Ireland Assembly Commission

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***Local government: England***

A county or district council constituted under section 2 of the Local Government Act 1972 (c. 70)  
The council of a London borough  
The Greater London Authority  
The Common Council of the City of London  
The Council of the Isles of Scilly

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***Local government: Wales***

A county or county borough council constituted under section 21 of the Local Government Act 1972

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***Local government: Scotland***

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

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***Local government: Northern Ireland***

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

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***Health: England and Wales***

A Strategic Health Authority or Health Authority established under section 8 of the National Health Service Act 1977 (c. 49)  
A Special Health Authority established under section 11 of that Act  
A Primary Care Trust established under section 16A of that Act  
A Local Health Board established under section 16BA of that Act

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A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19)

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***Health: Scotland***

The Common Services Agency established under section 10(1) of the National Health Service (Scotland) Act 1978 (c. 29)

A Health Board established under section 2(1)(a) of that Act

A National Health Service Trust established under section 12A(1) of that Act

A Special Health Board established under section 2(1)(b) of that Act

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***Health: Northern Ireland***

A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

A Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

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***Other planning authorities***

Any other authority that—

- (a) is a local planning authority within the meaning of the Town and Country Planning Act 1990 (c. 8), or
  - (b) is the planning authority for any of the purposes of the planning Acts within the meaning of the Town and Country Planning (Scotland) Act 1997 (c. 8)
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***Statutory bodies***

A body (other than a company) that is established by or under a statutory provision for the purpose of carrying out functions conferred on it by or under a statutory provision

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***Prescribed persons***

A person prescribed for the purposes of this section by Treasury order

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- (5) In this section references to a public body include—
- (a) a company in which all the shares are owned by such a body, and
  - (b) a wholly-owned subsidiary of such a company.

**Commencement Information**

**I25** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

**67 Transfer in consequence of reorganisation of parliamentary constituencies**

- (1) Where—
- (a) an Order in Council is made under the Parliamentary Constituencies Act 1986 (c. 56) (orders specifying new parliamentary constituencies), and
  - (b) an existing local constituency association transfers a chargeable interest to—

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- (i) a new association that is a successor to the existing association, or
  - (ii) a related body that as soon as practicable transfers the interest or right to a new association that is a successor to the existing association,
- the transfer, or where paragraph (b)(ii) applies each of the transfers, is exempt from charge.
- (2) In relation to any such order as is mentioned in subsection (1)(a)—
- (a) “the date of the change” means the date on which the order comes into operation;
  - (b) “former parliamentary constituency” means an area that, for the purposes of parliamentary elections, was a constituency immediately before that date but is no longer such a constituency after that date;
  - (c) “new parliamentary constituency” means an area that, for the purposes of parliamentary elections, is such a constituency after that date but was not such a constituency immediately before that date.
- (3) In relation to the date of the change—
- (a) “existing local constituency association” means a local constituency association whose area was the same, or substantially the same, as the area of a former parliamentary constituency or two or more such constituencies, and
  - (b) “new association” means a local constituency association whose area is the same, or substantially the same, as that of a new parliamentary constituency or two or more such constituencies.
- (4) In this section—
- (a) “local constituency association” means an unincorporated association (whether described as an association, a branch or otherwise) whose primary purpose is to further the aims of a political party in an area that at any time is or was the same or substantially the same as the area of a parliamentary constituency or two or more parliamentary constituencies, and
  - (b) “related body”, in relation to such an association, means a body (whether corporate or unincorporated) that is an organ of the political party concerned.
- (5) For the purposes of this section a new association is a successor to an existing association if any part of the existing association’s area is comprised in the new association’s area.

**Commencement Information**

**I26** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**68 Charities relief**

- (1) Schedule 8 provides for relief from stamp duty land tax for acquisitions by charities.
- (2) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

**Commencement Information**

**I27** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Status: Point in time view as at 07/04/2004.*

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## 69 Acquisition by bodies established for national purposes

A land transaction is exempt from charge if the purchaser is any of the following—

- (a) the Historic Buildings and Monuments Commission for England;
- (b) the National Endowment for Science, Technology and the Arts;
- (c) the Trustees of the British Museum;
- (d) the Trustees of the National Heritage Memorial Fund;
- (e) the Trustees of the Natural History Museum.

### Commencement Information

**I28** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 70 Right to buy transactions, shared ownership leases etc

Schedule 9 makes provision for relief in the case of right to buy transactions, shared ownership leases and certain related transactions.

### Commencement Information

**I29** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 71 Certain acquisitions by registered social landlord

(1) A land transaction under which the purchaser is a registered social landlord is exempt from charge if—

- (a) the registered social landlord is controlled by its tenants,
- (b) the vendor is a qualifying body, or
- (c) the transaction is funded with the assistance of a public subsidy.

(2) The reference in subsection (1)(a) to a registered social landlord “controlled by its tenants” is to a registered social landlord the majority of whose board members are tenants occupying properties owned or managed by it.

“Board member”, in relation to a registered social landlord, means—

- (a) if it is a company, a director of the company,
- (b) if it is a body corporate whose affairs are managed by its members, a member,
- (c) if it is body of trustees, a trustee,
- (d) if it is not within paragraphs (a) to (c), a member of the committee of management or other body to which is entrusted the direction of the affairs of the registered social landlord.

(3) In subsection (1)(b) “qualifying body” means—

- (a) a registered social landlord,
- (b) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50),
- (c) a principal council within the meaning of the Local Government Act 1972 (c. 70),
- (d) the Common Council of the City of London,
- (e) the Scottish Ministers,

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- (f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
  - (g) Scottish Homes,
  - (h) the Department for Social Development in Northern Ireland, or
  - (i) the Northern Ireland Housing Executive.
- (4) In subsection (1)(c) “public subsidy” means any grant or other financial assistance—
- (a) made or given by way of a distribution pursuant to section 25 of the National Lottery etc. Act 1993 (c. 39) (application of money by distributing bodies),
  - (b) under section 18 of the Housing Act 1996 (c. 52) (social housing grants),
  - (c) under section 126 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (financial assistance for regeneration and development),
  - (d) under section 2 of the Housing (Scotland) Act 1988 (c. 43) (general functions of the Scottish Ministers), or
  - (e) under Article 33 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)).

#### **Commencement Information**

**I30** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

## **72 Alternative property finance: land sold to financial institution and leased to individual**

- (1) This section applies where arrangements are entered into between an individual and a financial institution under which the institution—
- (a) purchases a major interest in land (“the first transaction”),
  - (b) grants to the individual out of that interest a lease (if the interest acquired is freehold) or a sub-lease (if the interest acquired is leasehold) (“the second transaction”), and
  - (c) enters into an agreement under which the individual has a right to require the institution or its successor in title to transfer the major interest purchased by the institution under the first transaction.
- (2) The first transaction is exempt from charge if the vendor is—
- (a) the individual, or
  - (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the individual.
- (3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).
- (4) A transfer to the individual that results from the exercise of the right mentioned in subsection (1)(c) (“the third transaction”) is exempt from charge if—
- (a) the provisions of this Part relating to the first and second transactions are complied with, and
  - (b) at all times between the second and third transactions—
    - (i) the interest purchased under the first transaction is held by a financial institution, and



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- (ii) the lease or sub-lease granted under the second transaction is held by the individual.
- (5) The agreement mentioned in subsection (1)(c) is not to be treated—
- (a) as substantially performed unless and until the third transaction is entered into (and accordingly section 44(5) does not apply), or
  - (b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).
- (6) The requirements of subsection (1), or (4)(b)(ii), are not met if—
- (a) the individual enters into the arrangement, or holds the lease or sub-lease, as trustee and any beneficiary of the trust is not an individual, or
  - (b) the individual enters into the arrangements, or holds the lease or sub-lease, as partner and any of the other partners is not an individual.
- (7) In this section “financial institution” means—
- (a) a bank within the meaning of section 840A of the Taxes Act 1988,
  - (b) a building society within the meaning of the Building Societies Act 1986 (c. 53), or
  - (c) a wholly-owned subsidiary of a bank within paragraph (a) or a building society within paragraph (b).
- For the purposes of paragraph (c) a company is a wholly-owned subsidiary of a bank or building society (“the parent”) if it has no members except the parent and the parent’s wholly-owned subsidiaries or persons acting on behalf of the parent or the parent’s wholly-owned subsidiaries.
- (8) In the application of this section to Scotland—
- (a) the reference to a freehold interest is a reference to the interest of the owner, and
  - (b) the reference to a leasehold interest is to a tenant’s right over or interest in a property subject to a lease.
- Until the appointed day for the purposes of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), the reference in paragraph (a) to the interest of the owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.
- (9) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.

**Commencement Information**

**I31** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**73 Alternative property finance: land sold to financial institution and re-sold to individual**

- (1) This section applies where arrangements are entered into between an individual and a financial institution under which—
- (a) the institution—
    - (i) purchases a major interest in land (“the first transaction”), and
    - (ii) sells that interest to the individual (“the second transaction”), and

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- (b) the individual grants the institution a legal mortgage over that interest.
- (2) The first transaction is exempt from charge if the vendor is—
  - (a) the individual concerned, or
  - (b) another financial institution by whom the interest was acquired under other arrangements of the kind mentioned in section 72(1) entered into between it and the individual.
- (3) The second transaction is exempt from charge if the financial institution complies with the provisions of this Part relating to the first transaction (including the payment of any tax chargeable).
- (4) This section does not apply if—
  - (a) the individual enters into the arrangements as trustee and any beneficiary of the trust is not an individual, or
  - (b) the individual enters into the arrangements as partner and any of the other partners is not an individual.
- (5) In this section—
  - (a) “financial institution” has the same meaning as in section 72;
  - (b) “legal mortgage”—
    - (i) in relation to land in England or Wales, means a legal mortgage as defined in section 205(1)(xvi) of the Law of Property Act 1925 (c. 20);
    - (ii) in relation to land in Scotland, means a standard security;
    - (iii) in relation to land in Northern Ireland, means a mortgage by conveyance of a legal estate or by demise or sub-demise or a charge by way of legal mortgage.
- (6) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.

#### **Commencement Information**

**I32** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **74 Collective enfranchisement by leaseholders**

- (1) This section applies where a chargeable transaction is entered into by an RTE company in pursuance of a right of collective enfranchisement.
- (2) In that case, the rate of tax is determined by reference to the fraction of the relevant consideration produced by dividing the total amount of that consideration by the number of flats in respect of which the right of collective enfranchisement is being exercised.
- (3) The tax chargeable is then determined by applying that rate to the chargeable consideration for the transaction.
- (4) In this section—
  - (a) “RTE company” has the meaning given by section 4A of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28);

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- (b) “right of collective enfranchisement” means the right exercisable by an RTE company under—
    - (i) Part 1 of the Landlord and Tenant Act 1987 (c. 31), or
    - (ii) Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and
  - (c) “flat” has the same meaning as in the Act conferring the right of collective enfranchisement.
- (5) References in this section to the relevant consideration have the same meaning as in section 55.

**Commencement Information**

**I33** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**75 Crofting community right to buy**

- (1) This section applies where—
  - (a) a chargeable transaction is entered into in pursuance of the crofting community right to buy, and
  - (b) under that transaction two or more crofts are being bought.
- (2) In that case, the rate of tax is determined by reference to the fraction of the relevant consideration produced by dividing the total amount of that consideration by the number of crofts being bought.
- (3) The tax chargeable is then determined by applying that rate to the amount of the chargeable consideration for the transaction in question.
- (4) In this section “crofting community right to buy” means the right exercisable by a crofting community body under Part 3 of the Land Reform (Scotland) Act 2003 (asp 2).
- (5) References in this section to the relevant consideration have the same meaning as in section 55.

**Commencement Information**

**I34** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Returns and other administrative matters*

**76 Duty to deliver land transaction return**

- (1) In the case of every notifiable transaction the purchaser must deliver a return (a “land transaction return”) to the Inland Revenue before the end of the period of 30 days after the effective date of the transaction.
- (2) The Inland Revenue may by regulations amend subsection (1) so as to require a land transaction return to be delivered before the end of such shorter period after the

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effective date of the transaction as may be prescribed or, if the regulations so provide, on that date.

- (3) A land transaction return in respect of a chargeable transaction must—
- (a) include an assessment (a “self-assessment”) of the tax that, on the basis of the information contained in the return, is chargeable in respect of the transaction, and
  - (b) be accompanied by payment of the amount chargeable.

#### Commencement Information

**I35** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 77 Notifiable transactions

- (1) This section specifies what land transactions are notifiable.
- (2) The grant of a lease is notifiable if—
  - (a) the lease is for a <sup>F11</sup>... term of seven years or more and is granted for chargeable consideration, or
  - (b) the lease is for a <sup>F12</sup>... term of less than seven years and either—
    - (i) the chargeable consideration consists or includes a premium in respect of which tax is chargeable at a rate of 1% or higher, or
    - (ii) the chargeable consideration consists of or includes rent in respect of which tax is chargeable at a rate of 1% or higher,
 or, in either case, in respect of which tax would be so chargeable but for a relief.
- (3) Any other acquisition of a major interest in land is notifiable unless it is exempt from charge under Schedule 3.
- (4) An acquisition of a chargeable interest other than a major interest in land is notifiable if there is chargeable consideration in respect of which tax is chargeable at a rate of 1% or higher, or in respect of which tax would be so chargeable but for a relief.

#### Textual Amendments

- F11** Word in s. 77(2)(a) omitted (1.12.2003) by virtue of [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(4)**
- F12** Word in s. 77(2)(b) omitted (1.12.2003) by virtue of [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(4)**

#### Commencement Information

**I36** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 78 Returns, enquiries, assessments and related matters

- (1) Schedule 10 has effect with respect to land transaction returns, assessments and related matters.
- (2) In that Schedule—

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Part 1 contains general provisions about returns;  
Part 2 imposes a duty to keep and preserve records;  
Part 3 makes provision for enquiries into returns;  
Part 4 provides for a Revenue determination if no return is delivered;  
Part 5 provides for Revenue assessments;  
Part 6 provides for relief in case of excessive assessment; and  
Part 7 provides for appeals against Revenue decisions on tax.

- (3) The Treasury may by regulations make such amendments of that Schedule, and such consequential amendments of any other provisions of this Part, as appear to them to be necessary or expedient from time to time.

#### **Commencement Information**

**I37** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **79 Registration of land transactions etc**

- (1) A land transaction to which this section applies, or (as the case may be) a document effecting or evidencing a land transaction to which this section applies, shall not be registered, recorded or otherwise reflected in an entry made—
- (a) in England and Wales, in the register of title maintained by the Chief Land Registrar,
  - (b) in Scotland, in any register maintained by the Keeper of the Registers of Scotland, or
  - (c) in Northern Ireland, in any register maintained by the Land Registry of Northern Ireland or in the Registry of Deeds for Northern Ireland,
- unless there is produced, together with the relevant application, a certificate as to compliance with the requirements of this Part in relation to the transaction.
- This does not apply where the entry is required to be made without any application or so far as the entry relates to an interest or right other than the chargeable interest acquired by the purchaser under the land transaction that gives rise to the application.
- (2) This section applies to every land transaction other than—
- (a) a contract for a land transaction under which the transaction is to be completed by a conveyance, or
  - (b) a transfer of rights (within the meaning of section 45) under such a contract.
- In this subsection “contract” includes any agreement and “conveyance” includes any instrument.
- (3) The certificate must be either—
- (a) a certificate by the Inland Revenue (a “Revenue certificate”) that a land transaction return has been delivered in respect of the transaction, or
  - (b) a certificate by the purchaser (a “self-certificate”) that no land transaction return is required in respect of the transaction.
- (4) The Inland Revenue may make provision by regulations about Revenue certificates. The regulations may, in particular—

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- (a) make provision as to the conditions to be met before a certificate is issued;
  - (b) prescribe the form and content of the certificate;
  - (c) make provision about the issue of duplicate certificates if the original is lost or destroyed;
  - (d) provide for the issue of multiple certificates where a return is made relating to more than one transaction.
- (5) Schedule 11 makes further provision about self-certificates.
- In that Schedule—
- Part 1 contains general provisions,
  - Part 2 imposes a duty to keep and preserve records, and
  - Part 3 makes provision for enquiries into self-certificates.
- (6) The registrar (in Scotland, the Keeper of the Registers of Scotland)—
- (a) shall allow the Inland Revenue to inspect any certificates or self-certificates produced to him under this section and in his possession, and
  - (b) may enter into arrangements for affording the Inland Revenue other information and facilities for verifying that the requirements of this Part have been complied with.

#### **Commencement Information**

**I38** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **80 Adjustment where contingency ceases or consideration is ascertained**

- (1) Where section 51 (contingent, uncertain or unascertained consideration) applies in relation to a transaction and—
- (a) in the case of contingent consideration, the contingency occurs or it becomes clear that it will not occur, or
  - (b) in the case of uncertain or unascertained consideration, an amount relevant to the calculation of the consideration, or any instalment of consideration, becomes ascertained,
- the following provisions have effect to require or permit reconsideration of how this Part applies to the transaction (and to any transaction in relation to which it is a linked transaction).
- (2) If the effect of the new information is that a transaction becomes notifiable<sup>F13</sup> ..., or that additional tax is payable in respect of a transaction or that tax is payable where none was payable before—
- (a) the purchaser must make a return to the Inland Revenue within 30 days,
  - (b) the return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return,
  - (c) the tax so chargeable is to be calculated by reference to the rates in force at the effective date of the transaction, and
  - (d) the return must be accompanied by payment of the tax or additional tax payable.
- (3) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a [F14]return under section 76

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(general requirement to make land transaction return), subject to the adaptation that references to the effective date of the transaction shall be read as references to the date of the event as a result of which the return is required].

- (4) If the effect of the new information is that less tax is payable in respect of a transaction than has already been paid, the amount overpaid shall on a claim by the purchaser be repaid together with interest as from the date of payment.

[<sup>F15</sup>(5) This section does not apply so far as the consideration consists of rent (see paragraph 8 of Schedule 17A).]

#### Textual Amendments

- F13** Words in s. 80(2) omitted (1.12.2003) by virtue of [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 5(2)**
- F14** Words in s. 80(3) substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. paras. 5(3), 8(5)(a)**
- F15** S. 80(5) added (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(5)(b)**

#### Modifications etc. (not altering text)

- C1** S. 80 excluded (1.12.2003) by [The Stamp Duty Land Tax \(Administration\) Regulations 2003 \(S.I. 2003/2837\)](#), regs. 1, **26**

#### Commencement Information

- I39** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 81 Further return where relief withdrawn

- (1) Where relief is withdrawn to any extent under—
- [<sup>F16</sup>(za) paragraph 11 of Schedule 6A (relief for certain acquisitions of residential property),]
- (a) Part 1 of Schedule 7 (group relief),
- (b) Part 2 of that Schedule (reconstruction or acquisition relief), or
- (c) Schedule 8 (charities relief),
- the purchaser must deliver a further return before the end of the period of 30 days after the date on which the disqualifying event occurred.
- (2) The return must—
- (a) include a self-assessment of the amount of tax chargeable, and
- (b) be accompanied by payment of the tax chargeable.
- (3) The provisions of Schedule 10 (returns, assessments and other matters) apply to a return under this section as they apply to a [<sup>F17</sup>return under section 76 (general requirement to deliver land transaction return)], with the following adaptations—
- (a) references to the transaction to which the return relates shall be read as references to the disqualifying event;
- (b) references to the effective date of the transaction shall be read as references to the date on which the disqualifying event occurs.
- (4) In this section “the disqualifying event” means—

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- [<sup>F18</sup>(za) in relation to the withdrawal of relief under Schedule 6A, an event mentioned in paragraph (a), (b) or (c) of paragraph 11(2), (3), (4) or (5) of that Schedule;]
- (a) in relation to the withdrawal of group relief, the purchaser ceasing to be a member of the same group as the vendor within the meaning of Part 1 of Schedule 7;
  - (b) in relation to the withdrawal of reconstruction or acquisition relief, the change of control of the acquiring company mentioned in paragraph 9(1)(a) of Schedule 7 or, as the case may be, the event mentioned in paragraph 11(1)(a) or (2)(a) of that Schedule;
  - (c) in relation to the withdrawal of charities relief, a disqualifying event as defined in paragraph 2(3) of Schedule 8.

#### Textual Amendments

- F16** S. 81(1)(za) inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 3(3)(a)**
- F17** Words in s. 81(3) substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 5(3)**
- F18** S. 81(4)(za) inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 3(3)(b)**

#### Commencement Information

- I40** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### [<sup>F19</sup>81A Return or further return in consequence of later linked transaction

- (1) Where the effect of a transaction (“the later transaction”) that is linked to an earlier transaction is that the earlier transaction becomes notifiable, or that additional tax is payable in respect of the earlier transaction or that tax is payable in respect of the earlier transaction where none was payable before—
  - (a) the purchaser under the earlier transaction must deliver a return or further return in respect of that transaction before the end of the period of 30 days after the effective date of the later transaction,
  - (b) the return must include a self-assessment of the amount of tax chargeable as a result of the later transaction,
  - (c) the tax so chargeable is to be calculated by reference to the rates in force at the effective date of the earlier transaction, and
  - (d) the return must be accompanied by payment of the tax or additional tax payable.
- (2) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a return under section 76 (general requirement to deliver land transaction return), with the following adaptations—
  - (a) in paragraph 5 (formal notice to deliver return), the requirement in subparagraph (2)(a) that the notice specify the transaction to which it relates shall be read as requiring both the earlier and later transactions to be specified;
  - (b) references to the effective date of the transaction to which the return relates shall be read as references to the effective date of the later transaction.
- (3) This section does not affect any requirement to make a return under section 76 in respect of the later transaction.]



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#### Textual Amendments

**F19** S. 81A inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 5(1)**

### [<sup>F20</sup> **81B Declaration by person authorised to act on behalf of individual**

- (1) This section applies to the declaration mentioned in paragraph 1(1)(c) of Schedule 10 or paragraph 2(1)(c) of Schedule 11 (declaration that return or self-certificate is correct and complete).
- (2) The requirement that an individual make such a declaration (alone or jointly with others) is treated as met if a declaration to that effect is made by a person authorised to act on behalf of that individual in relation to the matters to which the return or certificate relates.
- (3) For the purposes of this section a person is not regarded as authorised to act on behalf of an individual unless he is so authorised by a power of attorney in writing, signed by that individual.

In this subsection as it applies in Scotland “power of attorney” includes factory and commission.

- (4) Nothing in this section affects the making of a declaration in accordance with—
  - (a) section 100(2) (persons through whom a company acts), or
  - (b) section 106(1) or (2) (person authorised to act on behalf of incapacitated person or minor).]

#### Textual Amendments

**F20** S. 81B inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 6**

### **82 Loss or destruction of, or damage to, return etc**

- (1) This section applies where—
  - (a) a return delivered to the Inland Revenue, or
  - (b) any other document relating to tax made by or provided to the Inland Revenue, has been lost or destroyed, or been so defaced or damaged as to be illegible or otherwise useless.
- (2) The Inland Revenue may treat the return as not having been delivered or the document as not having been made or provided.
- (3) Anything done on that basis shall be as valid and effective for all purposes as it would have been if the return had not been made or the document had not been made or provided.
- (4) But if as a result a person is charged with tax and he proves to the satisfaction of the General or Special Commissioners having jurisdiction in the case that he has already paid tax in respect of the transaction in question, relief shall be given, by reducing the charge or by repayment as the case may require.

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#### Commencement Information

**I41** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 83 Formal requirements as to assessments, penalty determinations etc

- (1) An assessment, determination, notice or other document required to be used in assessing, charging, collecting and levying tax or determining a penalty under this Part must be in accordance with the forms prescribed from time to time by the Board and a document in the form so prescribed and supplied or approved by the Board is valid and effective.
- (2) Any such assessment, determination, notice or other document purporting to be made under this Part is not ineffective—
  - (a) for want of form, or
  - (b) by reason of any mistake, defect or omission in it,
 if it is substantially in conformity with this Part and its intended effect is reasonably ascertainable by the person to whom it is directed.
- (3) The validity of an assessment or determination is not affected—
  - (a) by any mistake in it as to—
    - (i) the name of a person liable, or
    - (ii) the amount of the tax charged, or
  - (b) by reason of any variance between the notice of assessment or determination and the assessment or determination itself.

#### Commencement Information

**I42** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 84 Delivery and service of documents

- (1) A notice or other document to be served under this Part on a person may be delivered to him or left at his usual or last known place of abode.
- (2) A notice or other document to be given, served or delivered under this Part may be served by post.
- (3) For the purposes of section 7 of the Interpretation Act 1978 (c. 30) (general provisions as to service by post) any such notice or other document to be given or delivered to, or served on, any person by the Inland Revenue is properly addressed if it is addressed to that person—
  - (a) in the case of an individual, at his usual or last known place of residence or his place of business;
  - (b) in the case of a company—
    - (i) at its principal place of business,
    - (ii) if a liquidator has been appointed, at his address for the purposes of the liquidation, or
    - (iii) at any place prescribed by regulations made by the Inland Revenue.

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**Commencement Information**

**I43** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Liability for and payment of tax*

**85 Liability for tax**

- (1) The purchaser is liable to pay the tax in respect of a chargeable transaction.
- (2) As to the liability of purchasers acting jointly see—  
section 103(2)(c) (joint purchasers);  
Part 2 of Schedule 15 (partners); and  
paragraph 5 of Schedule 16 (trustees).

**Commencement Information**

**I44** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**86 Payment of tax**

- (1) Tax payable in respect of a land transaction must be paid at the same time that a land transaction return is made in respect of the transaction.
- (2) Tax payable as a result of the withdrawal of relief under—
  - (a) Part 1 of Schedule 7 (group relief),
  - (b) Part 2 of that Schedule (reconstruction or acquisition relief), or
  - (c) Schedule 8 (charities relief),must be paid at the same time that a return is made in respect of the withdrawal (see section 81).
- (3) Tax payable as a result of the amendment of a return must be paid forthwith or, if the amendment is made before the filing date for the return, not later than that date.
- (4) Tax payable in accordance with a determination or assessment by the Inland Revenue must be paid within 30 days after the determination or assessment is issued.
- (5) The above provisions are subject to—
  - (a) section 90 (application to defer payment of tax in case of contingent or uncertain consideration), and
  - (b) paragraphs 39 and 40 of Schedule 10 (postponement of payment pending determination of appeal).
- (6) This section does not affect the date from which interest is payable (as to which, see section 87).

**Commencement Information**

**I45** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Status: Point in time view as at 07/04/2004.*

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## 87 Interest on unpaid tax

- (1) Interest is payable on the amount of any unpaid tax from the end of the period of 30 days after the relevant date until the tax is paid.
- (2) The Inland Revenue may by regulations amend subsection (1) so as to make interest run from the end of such shorter period after the relevant date as may be prescribed or, if the regulations so provide, from that date.
- (3) For the purposes of this section “the relevant date” is—
  - (a) in the case of an amount payable because relief is withdrawn under—
    - [<sup>F21</sup>(ia) Schedule 6A (relief for certain acquisitions of residential property),]
      - (i) Part 1 of Schedule 7 (group relief),
      - (ii) Part 2 of that Schedule (reconstruction or acquisition relief), or
      - (iii) Schedule 8 (charities relief),
 the date of the disqualifying event;
    - [<sup>F22</sup>(aa) in the case of an amount payable under section 81A in respect of an earlier transaction because of the effect of a later linked transaction, the effective date of the later transaction;]
    - [<sup>F23</sup>(ab) in the case of an amount payable under paragraph 3(3) or 4(3) of Schedule 17A (leases that continue after a fixed term and treatment of leases for an indefinite term), the day on which the lease becomes treated as being for a longer fixed term;]
    - (b) in the case of a deferred payment under section 90, the date when the deferred payment is due;
    - (c) in any other case, the effective date of the transaction.
- (4) In subsection (3)(a) “the disqualifying event” means—
  - [<sup>F24</sup>(za) in relation to the withdrawal of relief under Schedule 6A an event mentioned in paragraph (a), (b) or (c) of paragraph 11(2), (3), (4) or (5) of that Schedule;]
  - (a) in relation to the withdrawal of group relief, the purchaser ceasing to be a member of the same group as the vendor (within the meaning of Part 1 of Schedule 7);
  - (b) in relation to the withdrawal of reconstruction or acquisition relief, the change of control of the acquiring company mentioned in paragraph 9(1)(a) of that Schedule or, as the case may be, the event mentioned in paragraph 11(1)(a) or (2)(a) of that Schedule;
  - (c) in relation to the withdrawal of charities relief, a disqualifying event as defined in paragraph 2(3) of Schedule 8.
- (5) Subsection (3)(c) applies in a case within section 51 (contingent, uncertain or unascertained consideration) if payment is not deferred under section 90, with the result that interest on any tax payable under section 80 (adjustment where contingency ceases or consideration is ascertained) runs from the effective date of the transaction.
- (6) If an amount is lodged with the Inland Revenue in respect of the tax, the amount on which interest is payable is reduced by that amount.
- (7) Interest is calculated at the rate applicable under section 178 of the Finance Act 1989 (c. 26) (power of Treasury to prescribe rates of interest).

*Status: Point in time view as at 07/04/2004.*

*Changes to legislation: Finance Act 2003, Part 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F21** S. 87(3)(a)(ia) inserted (1.12.2003) by The Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), reg. 1, **Sch. para. 3(4)(a)**
- F22** S. 87(3)(aa) inserted (1.12.2003) by The Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), reg. 1, **Sch. para. 5(4)**
- F23** S. 87(3)(ab) inserted (1.12.2003) by The Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), reg. 1, **Sch. para. 8(6)**
- F24** S. 87(4)(za) inserted (1.12.2003) by The Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), reg. 1, **Sch. para. 3(4)(b)**

#### Commencement Information

- I46** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 88 Interest on penalties

A penalty under this Part shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date it is determined until payment.

#### Commencement Information

- I47** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 89 Interest on repayment of tax overpaid etc

- (1) A repayment by the Inland Revenue to which this section applies shall be made with interest at the rate applicable under section 178 of the Finance Act 1989 for the period between the relevant time (as defined below) and the date when the order for repayment is issued.
- (2) This section applies to—
  - (a) any repayment of tax, and
  - (b) any repayment of a penalty under this Part.In that case the relevant time is the date on which the payment of tax or penalty was made.
- (3) This section also applies to a repayment by the Inland Revenue of an amount lodged with them in respect of the tax payable in respect of a transaction. In that case the relevant time is the date on which the amount was lodged with them.
- (4) No interest is payable under this section in respect of a payment made in consequence of an order or judgment of a court having power to allow interest on the payment.
- (5) Interest paid to any person under this section is not income of that person for any tax purposes.

#### Commencement Information

- I48** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Status: Point in time view as at 07/04/2004.*

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## **90 Application to defer payment in case of contingent or uncertain consideration**

- (1) The purchaser may apply to the Inland Revenue to defer payment of tax in a case where the amount payable depends on the amount or value of chargeable consideration that—
  - (a) at the effective date of the transaction is contingent or uncertain, and
  - (b) falls to be paid or provided on one or more future dates of which at least one falls, or may fall, more than six months after the effective date of the transaction.
- (2) The Inland Revenue may make provision by regulations for carrying this section into effect.
- (3) The regulations may in particular—
  - (a) specify when an application is to be made;
  - (b) impose requirements as to the form and contents of an application;
  - (c) require the applicant to provide such information as the Inland Revenue may reasonably require for the purposes of determining whether to accept an application;
  - (d) specify the grounds on which an application may be refused;
  - (e) specify the procedure for reaching a decision on an application;
  - (f) make provision for postponing payment of tax when an application has been made;
  - (g) provide for an appeal to the General or Special Commissioners against a refusal to accept an application, and make provision in relation to such an appeal corresponding to any provision made in relation to appeals under Part 7 of Schedule 10 (appeals against Revenue decisions on tax);
  - (h) provide for the effect of accepting an application;
  - (i) require the purchaser to make a return or further return, and to make such payments or further payments of tax as may be specified, in such circumstances as may be specified.
- (4) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a land transaction return.
- (5) An application under this section does not affect the purchaser's obligations as regards payment of tax in respect of chargeable consideration that has already been paid or provided or is not contingent and whose amount is ascertained or ascertainable at the time the application is made.

This applies as regards both the time of payment and the calculation of the amount payable.

- (6) Regulations under this section may provide that where—
  - (a) a payment is made as mentioned in subsection (5), and
  - (b) an application under this section is accepted in respect of other chargeable consideration taken into account in calculating the amount of that payment,
 section 80 (adjustment where contingency ceases or consideration is ascertained) does not apply in relation to the payment and, instead, any necessary adjustment shall be made in accordance with the regulations.

[<sup>F25</sup>(7) This section does not apply so far as the consideration consists of rent.]

*Status: Point in time view as at 07/04/2004.*

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#### Textual Amendments

**F25** S. 90(7) added (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(7)**

#### Commencement Information

**I49** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 91 Collection and recovery of tax etc

(1) The provisions of Schedule 12 have effect with respect to the collection and recovery of tax.

In that Schedule—

Part 1 contains general provisions, and

Part 2 relates to court proceedings.

(2) The provisions of that Schedule have effect in relation to the collection and recovery of any unpaid amount by way of—

(a) penalty under this Part, or

(b) interest under this Part (on unpaid tax or penalty),

as if it were an amount of unpaid tax.

#### Commencement Information

**I50** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 92 Payment by cheque

For the purposes of this Part where—

(a) payment to the Inland Revenue is made by cheque, and

(b) the cheque is paid on its first presentation to the banker on whom it is drawn, the payment is treated as made on the day on which the cheque was received by the Inland Revenue.

#### Commencement Information

**I51** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## Compliance

### 93 Information powers

(1) Schedule 13 has effect with respect to the powers of the Inland Revenue to call for documents and information for the purposes of stamp duty land tax.

(2) In that Schedule—

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Part 1 confers power on an authorised officer to call for documents or information from the taxpayer;

Part 2 confers power on an authorised officer to call for documents from a third party;

Part 3 confers power on an authorised officer to call for the papers of a tax accountant;

Part 4 imposes restrictions on the powers under Parts 1 to 3;

Part 5 confers powers on the Board to call for documents or information;

Part 6 provides for an order of a judicial authority for the delivery of documents;

Part 7 provides for entry with a warrant to obtain evidence of an offence;

Part 8 relates to falsification etc of documents.

- (3) A person who is required by a notice under Part 1, 2 or 3 of Schedule 13 to deliver a document or to provide information, or to make a document available for inspection, and who fails to comply with the notice is liable to a penalty not exceeding £300.
- (4) If the failure continues after a penalty has been imposed under subsection (3), he is liable to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that subsection was imposed (but excluding any day for which a penalty under this subsection has already been imposed).
- (5) No penalty shall be imposed under subsection (3) or (4) in respect of a failure at any time after the failure has been remedied.
- (6) A person who is required by a notice under Part 1, 2 or 3 of Schedule 13 to deliver a document or to provide information, or to make a document available for inspection, and who fraudulently or negligently delivers, provides or makes available any incorrect document or information is liable to a penalty not exceeding £3,000.

#### **Commencement Information**

**I52** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **94 Power to inspect premises**

- (1) If for the purposes of this Part the Board authorise an officer of theirs to inspect any property for the purpose of ascertaining its market value, or any other matter relevant for the purposes of this Part, the person having custody or possession of the property shall permit the officer so authorised to inspect it at such reasonable times as the Board may consider necessary.
- (2) A person who wilfully delays or obstructs an officer of the Board acting in pursuance of this section commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

#### **Commencement Information**

**I53** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)



*Status: Point in time view as at 07/04/2004.*

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## 95 Offence of fraudulent evasion of tax

- (1) A person commits an offence if he is knowingly concerned in the fraudulent evasion of tax by him or any other person.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine, or both.

### Commencement Information

**I54** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 96 Penalty for assisting in preparation of incorrect return etc

A person who assists in or induces the preparation or delivery of any information, return or other document that—

- (a) he knows will be, or is likely to be, used for any purpose of tax, and
  - (b) he knows to be incorrect,
- is liable to a penalty not exceeding £3,000.

### Commencement Information

**I55** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 97 Power to allow further time and reasonable excuse for failure

- (1) For the purposes of this Part a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Inland Revenue may allow.
- (2) Where a person had a reasonable excuse for not doing anything required to be done for the purposes of this Part—
  - (a) he shall be deemed not to have failed to do it unless the excuse ceased, and
  - (b) after the excuse ceased, he shall be deemed not to have failed to do it if he did it without unreasonably delay after the excuse had ceased.

### Commencement Information

**I56** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 98 Admissibility of evidence not affected by offer of settlement etc

- (1) Statements made or documents produced by or on behalf of a person are not inadmissible in proceedings to which this section applies by reason only that it has been drawn to his attention—

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- (a) that where serious tax fraud has been committed the Board may accept a money settlement and that the Board will accept such a settlement, and will not pursue a criminal prosecution, if he makes a full confession of all tax irregularities, or
  - (b) that the extent to which he is helpful and volunteers information is a factor that will be taken into account in determining the amount of any penalty,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (2) The proceedings to which this section applies are—
- (a) any criminal proceedings against the person in question for any form of fraudulent conduct in connection with or in relation to tax;
  - (b) any proceedings against him for the recovery of any tax due from him;
  - (c) any proceedings for a penalty or on appeal against the determination of a penalty.

#### Commencement Information

**I57** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 99 General provisions about penalties

- (1) Schedule 14 has effect with respect to the determination of penalties under this Part and related appeals.
- (2) The Board may in their discretion mitigate a penalty under this Part, or stay or compound any proceedings for the recovery of such a penalty.  
  
They may also, after judgment, further mitigate or entirely remit the penalty.
- (3) Nothing in the provisions of this Part relating to penalties affects any criminal proceedings for an offence.

#### Commencement Information

**I58** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### *Application of provisions*

## 100 Companies

- (1) In this Part “company”, except as otherwise expressly provided, means any body corporate or unincorporated association, but does not include a partnership.
- (2) Everything to be done by a company under this Part shall be done by the company acting through—
  - (a) the proper officer of the company, or
  - (b) another person having for the time being having the express, implied or apparent authority of the company to act on its behalf for the purpose.
 Paragraph (b) does not apply where a liquidator has been appointed for the company.

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- (3) Service on a company of any document under or in pursuance of this Part may be effected by serving it on the proper officer.
- (4) Tax due from a company that—
- (a) is not a body corporate, or
  - (b) is incorporated under the law of a country or territory outside the United Kingdom,
- may, without prejudice to any other method of recovery, be recovered from the proper officer of the company.
- (5) The proper officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax and, so far as he is not so reimbursed, he is entitled to be indemnified by the company in respect of the liability imposed on him.
- (6) For the purposes of this Part—
- (a) the proper officer of a body corporate is the secretary, or person acting as secretary, of the company, and
  - (b) the proper officer of an unincorporated association, or of a body corporate that does not have a proper officer within paragraph (a), is the treasurer, or person acting as treasurer, of the company.
- This subsection does not apply if a liquidator or administrator has been appointed for the company.
- (7) If a liquidator or administrator has been appointed for the company, then, for the purposes of this Part—
- (a) the liquidator or, as the case may be, the administrator is the proper officer, and
  - (b) if two or more persons are appointed to act jointly or concurrently as the administrator of the company, the proper officer is—
    - (i) such one of them as is specified in a notice given to the Inland Revenue by those persons for the purposes of this section, or
    - (ii) where the Inland Revenue is not so notified, such one or more of those persons as the Inland Revenue may designate as the proper officer for those purposes.

#### **Commencement Information**

**I59** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### **101 Unit trust schemes**

- (1) This Part (with the exception of the provisions mentioned in subsection (7) below) applies in relation to a unit trust scheme as if—
- (a) the trustees were a company, and
  - (b) the rights of the unit holders were shares in the company.
- (2) Each of the parts of an umbrella scheme is regarded for the purposes of this Part as a separate unit trust scheme and the scheme as a whole is not so regarded.
- (3) An “umbrella scheme” means a unit trust scheme—

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- (a) that provides arrangements for separate pooling of the contributions of participants and the profits or income out of which payments are to be made for them, and
- (b) under which the participants are entitled to exchange rights in one pool for rights in another.

A “part” of an umbrella scheme means such of the arrangements as relate to a separate pool.

- (4) In this Part, subject to any regulations under subsection (5)—
  - “unit trust scheme” has the same meaning as in the Financial Services and Markets Act 2000 (c. 8), and
  - “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.
- (5) The Treasury may by regulations provide that a scheme of a description specified in the regulations is to be treated as not being a unit trust scheme for the purposes of this Part.
 

Any such regulations may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.
- (6) Section 469A of the Taxes Act 1988 (court common investment funds treated as authorised unit trusts) applies for the purposes of this Part as it applies for the purposes of that Act, with the substitution for references to an authorised unit trust of references to a unit trust scheme.
- (7) An unit trust scheme is not to be treated as a company for the purposes of—
  - section 53 (deemed market value rule for transactions with connected companies),
  - or
  - Schedule 7 (group relief, reconstruction relief or acquisition relief).

#### **Commencement Information**

**I60** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **102 Open-ended investment companies**

- (1) The Treasury may by regulations make such provision as they consider appropriate for securing that the provisions of this Part have effect in relation to—
  - (a) open-ended investment companies of such description as may be prescribed in the regulations, and
  - (b) transactions involving such companies,

in a manner corresponding, subject to such modifications as the Treasury consider appropriate, to the manner in which they have effect in relation to unit trust schemes and transactions involving such trusts.
- (2) The regulations may, in particular, make provision—
  - (a) modifying the operation of any prescribed provision in relation to open-ended investment companies so as to secure that arrangements for treating the assets of such a company as assets comprised in separate pools are given an effect corresponding to that of equivalent arrangements constituting the separate parts of an umbrella scheme;

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- (b) treating the separate parts of the undertaking of an open-ended investment company in relation to which such provision is made as distinct companies for the purposes of this Part.
- (3) Regulations under this section may—
  - (a) make different provision for different cases, and
  - (b) contain such incidental, supplementary, consequential and transitional provision as the Treasury think fit.
- (4) In this section—
  - “open-ended investment company” has the meaning given by section 236 of the Financial Services and Markets Act 2000 (c. 8);
  - “prescribed” means prescribed by regulations under this section; and
  - “unit trust scheme” and “umbrella scheme” have the same meaning as in section 101.

#### **Commencement Information**

**I61** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### **103 Joint purchasers**

- (1) This section applies to a land transaction where there are two or more purchasers who are or will be jointly entitled to the interest acquired.
  - (2) The general rules are that—
    - (a) any obligation of the purchaser under this Part in relation to the transaction is an obligation of the purchasers jointly but may be discharged by any of them,
    - (b) anything required or authorised by this Part to be done in relation to the purchaser must be done by or in relation to all of them, and
    - (c) any liability of the purchaser under this Part in relation to the transaction (in particular, any liability arising by virtue of the failure to fulfil an obligation within paragraph (a)), is a joint and several liability of the purchasers.
- These rules are subject to the following provisions.
- (3) If the transaction is a notifiable transaction, a single land transaction return is required.
  - (4) The declaration required by paragraph 1(1)(c) of Schedule 10 or paragraph 2(1)(c) of Schedule 11 (declaration that return or self-certificate is complete and correct) must be made by all the purchasers.
  - (5) If the Inland Revenue give notice of an enquiry into the return or self-certificate—
    - (a) the notice must be given to each of the purchasers,
    - (b) the powers of the Inland Revenue as to the production of documents and provision of information for the purposes of the enquiry are exercisable separately (and differently) in relation to each of the purchasers,
    - (c) any of the purchasers may apply for a direction that a closure notice be given (and all of them are entitled to appear and be heard on the application), and
    - (d) the closure notice must be given to each of the purchasers.

*Status: Point in time view as at 07/04/2004.*

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- (6) A Revenue determination or discovery assessment relating to the transaction must be made against all the purchasers and is not effective against any of them unless notice of it is given to each of them whose identity is known to the Inland Revenue.
- (7) In the case of an appeal arising from proceedings under this Part relating to the transaction—
- (a) the appeal may be brought by any of the purchasers,
  - (b) notice of the appeal must be given to any of them by whom it is not brought,
  - (c) the agreement of all the purchasers is required if the appeal is to be settled by agreement,
  - (d) if it is not settled, any of them are entitled to appear and be heard, and
  - (e) the decision on the appeal binds all of them.
- (8) This section has effect subject to—
- the provisions of Schedule 15 relating to partnerships, and
  - the provisions of Schedule 16 relating to trustees.

**Commencement Information**

**I62** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**104 Partnerships**

- (1) Schedule 15 has effect with respect to the application of this Part in relation to partnerships.
- (2) In that Schedule—
- Part 1 defines “partnership” and contains other general provisions, and
  - Part 2 deals with ordinary partnership transactions, and
  - Part 3 excludes certain transactions from stamp duty land tax.

**Commencement Information**

**I63** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**105 Trustees**

Schedule 16 has effect with respect to the application of this Part in relation to trustees.

**Commencement Information**

**I64** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**106 Persons acting in a representative capacity etc**

- (1) The person having the direction, management or control of the property of an incapacitated person—

*Status: Point in time view as at 07/04/2004.*

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- (a) is responsible for discharging any obligations under this Part, in relation to a transaction affecting that property, to which the incapacitated person would be subject if he were not incapacitated, and
  - (b) may retain out of money coming into his hands on behalf of the incapacitated person sums sufficient to meet any payment he is liable to make under this Part, and, so far as he is not so reimbursed, is entitled to be indemnified in respect of any such payment.
- (2) The parent or guardian of a minor is responsible for discharging any obligations of the minor under this Part that are not discharged by the minor himself.
- (3) The personal representatives of a person who is the purchaser under a land transaction—
- (a) are responsible for discharging the obligations of the purchaser under this Part in relation to the transaction, and
  - (b) may deduct any payment made by them under this Part out of the assets and effects of the deceased person.
- (4) A receiver appointed by a court in the United Kingdom having the direction and control of any property is responsible for discharging any obligations under this Part in relation to a transaction affecting that property as if the property were not under the direction and control of the court.

**Commencement Information**

**I65** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**107 Crown application**

[<sup>F26</sup>(1) This Part binds the Crown, subject to the following provisions of this section.]

- (2) A land transaction under which the purchaser is any of the following is exempt from charge:

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***Government***

A Minister of the Crown  
The Scottish Ministers  
A Northern Ireland department

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***Parliament etc***

The Corporate Officer of the House of Lords  
The Corporate Officer of the House of Commons  
The Scottish Parliamentary Corporate Body  
The Northern Ireland Assembly Commission  
The National Assembly for Wales

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- (3) The powers conferred by Part 7 of Schedule 13 (entry with warrant to obtain information) are not exercisable in relation to premises occupied for the purposes of the Crown.

[<sup>F27</sup>(4) Nothing in this section shall be read as making the Crown liable to prosecution for an offence.]

#### Textual Amendments

**F26** S. 107(1) substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, Sch. para. 7(1)(2)

**F27** S. 107(4) added (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, Sch. para. 7(1)(3)

#### Commencement Information

**I66** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### Supplementary provisions

#### 108 Linked transactions

- (1) Transactions are “linked” for the purposes of this Part if they form part of a single scheme, arrangement or series of transactions between the same vendor and purchaser or, in either case, persons connected with them.

Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this subsection

- (2) Where there are two or more linked transactions with the same effective date, the purchaser, or all of the purchasers if there is more than one, may make a single land transaction return as if all of those transactions that are notifiable were a single notifiable transaction.
- (3) Where two or more purchasers make a single return in respect of linked transactions, section 103 (joint purchasers) applies as if—
- the transactions in question were a single transaction, and
  - those purchasers were purchasers acting jointly.

#### Commencement Information

**I67** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**I68** S. 108(1) has effect as specified by [The Stamp Duty Land Tax \(Appointment of the Implementation Date\) Order 2003 \(S.I. 2003/2899\)](#), art. 2

#### 109 General power to vary this Part by regulations

- (1) The Treasury may if they consider it expedient in the public interest make provision by regulations for the variation of this Part in its application to land transactions of any description.
- (2) The power conferred by this section includes, in particular, power to alter—



*Status: Point in time view as at 07/04/2004.*

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- (a) the descriptions of land transaction that are chargeable or notifiable;
  - (b) the descriptions of land transaction in respect of which tax is chargeable at any existing rate or amount.
- (3) The power conferred by this section does not, except as mentioned in subsection (2)
  - (b), include power to vary any threshold, rate or amount specified in—
    - (a) section 55 (amount of tax chargeable: general), or
    - (b) Schedule 5 (amount of tax chargeable: rent).
- (4) This section has effect subject to section 110 (approval of regulations by House of Commons).
- (5) Regulations under this section do not apply in relation to any transaction of which the effective date is after the end of—
  - (a) the period of 18 months beginning with the day on which the regulations were made, or
  - (b) such shorter period as may be specified in the regulations.

This does not affect the power to make further provision by regulations under this section to the same or similar effect.
- (6) Regulations under this section may include such supplementary, transitional and incidental provision as appears to the Treasury to be necessary or expedient.
- (7) The power conferred by this section may be exercised at any time after the passing of this Act.

#### **Commencement Information**

**I69** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### **110 Approval of regulations under general power**

- (1) An instrument containing regulations under section 109 (general power to vary this Part by regulations) must be laid before the House of Commons after being made.
- (2) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they shall cease to have effect at the end of that period (if they have not already ceased to have effect under subsection (3)).
- (3) If on any day during that period of 28 days the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.
- (4) In reckoning any such period of 28 days take no account of any time during which—
  - (a) Parliament is prorogued or dissolved, or
  - (b) the House of Commons is adjourned for more than four days.
- (5) Where regulations cease to have effect under this section, their ceasing to have effect is without prejudice to anything done in reliance on them.

As to claims for repayment, see section 111.

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**Commencement Information**

**I70** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**111 Claim for repayment if regulations under general power not approved**

- (1) Where regulations cease to have effect under section 110, any amount paid by way of tax, or interest or penalty, that would not have been payable but for the regulations shall, on a claim, be repaid by the Inland Revenue.
- (2) Section 89 (interest on repayment of tax overpaid etc) applies to a repayment under this section.
- (3) A claim for repayment must be made within two years after the effective date of the transaction in question.
- (4) The Inland Revenue may make provision by regulations—
  - (a) for varying the time limit for making a claim;
  - (b) as to any other conditions that must be met before repayment is made.

**Commencement Information**

**I71** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**112 Power to amend certain provisions before implementation**

- (1) The Treasury may by regulations amend the following provisions of this Part—
  - (a) Schedule 5 (amount of tax chargeable: rent);
  - (b) subsection (2) of section 55 (amount of tax chargeable: general) so far as relating to the thresholds at which different rates of tax become payable.
- (2) The regulations may make such consequential amendments of Schedule 6 (disadvantaged areas relief) as appear to the Treasury to be appropriate.
- (3) A statutory instrument containing regulations under this section shall not be made unless a draft of the instrument has been laid before and approved by resolution of the House of Commons.
- (4) The power conferred by this section is not exercisable after the implementation date.

**Commencement Information**

**I72** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**113 Functions conferred on “the Inland Revenue”**

- (1) References in this Part to “the Inland Revenue” are to any officer of the Board, except as otherwise provided.
- (2) Any power of the Inland Revenue to make regulations is exercisable only by the Board.

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- (3) In Schedule 10 (returns, assessments and other administrative matters)—
- (a) functions of the Inland Revenue under these provisions are exercisable by the Board or an officer of the Board—
    - (i) paragraph 28 (discovery assessment),
    - (ii) paragraph 29 (assessment to recover excessive repayment);
  - (b) functions of the Inland Revenue under these provisions are functions of the Board—
    - (i) paragraph 33 (relief in case of double assessment),
    - (ii) paragraph 34 (relief in case of mistake in return).
- (4) Nothing in this section affects any provision of this Part that expressly confers functions on the Board, an officer of the Board, a collector or a specific officer of the Board.

#### **Commencement Information**

**I73** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **114 Orders and regulations made by the Treasury or the Inland Revenue**

- (1) Except as otherwise provided, any power of the Treasury or the Inland Revenue to make an order or regulations under this Part, or under any other enactments relating to stamp duty land tax (including enactments passed after this Act), is exercisable by statutory instrument.
- (2) Subsection (1) does not apply in relation to the power conferred by—  
paragraph 8 of Schedule 5 to this Act (tax chargeable in respect of rent: power to prescribe temporal discount rate),  
section 178(5) of the Finance Act 1989 (c. 26) (power to prescribe rates of interest).
- (3) Except as otherwise provided, a statutory instrument containing any order or regulations made by the Treasury or the Inland Revenue under this Part, or under any other enactments relating to stamp duty land tax (including enactments passed after this Act), shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Subsection (3) does not apply to a statutory instrument made under the power conferred by—  
section 61(3) (compliance with planning obligations: power to add to list of public authorities);  
paragraph 1(3) of Schedule 9 (right to buy transactions: power to add to list of relevant public sector bodies);  
paragraph 2(2) of Schedule 19 (commencement and transitional provisions: power to appoint implementation date).

#### **Commencement Information**

**I74** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Status: Point in time view as at 07/04/2004.*

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## 115 General and Special Commissioners, appeals and other proceedings

Schedule 17 makes provision about the General and Special Commissioners, appeals and other proceedings before the Commissioners and related matters.

### Commencement Information

**I75** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

*Interpretation etc*

## 116 Meaning of “residential property”

- (1) In this Part “residential property” means—
- (a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use, and
  - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land), or
  - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b);
- and “non-residential property” means any property that is not residential property.
- This is subject to the rule in subsection (7) in the case of a transaction involving six or more dwellings.
- (2) For the purposes of subsection (1) a building used for any of the following purposes is used as a dwelling—
- (a) residential accommodation for school pupils;
  - (b) residential accommodation for students, other than accommodation falling with subsection (3)(b);
  - (c) residential accommodation for members of the armed forces;
  - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3).
- (3) For the purposes of subsection (1) a building used for any of the following purposes is not used as a dwelling—
- (a) a home or other institution providing residential accommodation for children;
  - (b) a hall of residence for students in further or higher education;
  - (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (d) a hospital or hospice;
  - (e) a prison or similar establishment;
  - (f) a hotel or inn or similar establishment.
- (4) Where a building is used for a purpose specified in subsection (3), no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use.

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- (5) Where a building that is not in use is suitable for use for at least one of the purposes specified in subsection (2) and at least one of those specified in subsection (3)—
- (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same sub-paragraph, no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use,
  - (b) otherwise, the building shall be treated for those purposes as suitable for use as a dwelling.
- (6) In this section “building” includes part of a building.
- (7) Where six or more separate dwellings are the subject of a single transaction involving the transfer of a major interest in, or the grant of a lease over, them, then, for the purposes of this Part as it applies in relation to that transaction, those dwellings are treated as not being residential property.
- (8) The Treasury may by order—
- (a) amend subsections (2) and (3) so as to change or clarify the cases where use of a building is, or is not to be, use of a building as a dwelling for the purposes of subsection (1);
  - (b) amend or repeal subsection (7) and the reference to that subsection in subsection (1).

Any such order may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

#### **Commencement Information**

**I76** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### **117 Meaning of “major interest” in land**

(1) References in this Part to a “major interest” in land shall be construed as follows.

(2) In relation to land in England or Wales, the references are to—

- (a) an estate in fee simple absolute, or
- (b) a term of years absolute,

whether subsisting at law or in equity.

(3) In relation to land in Scotland, the references are to—

- (a) the interest of an owner of land, or
- (b) the tenant’s right over or interest in a property subject to a lease.

Until the appointed day for the purposes of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), the reference in paragraph (a) to the interest of the owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.

(4) In relation to land in Northern Ireland, the references are to—

- (a) any freehold estate, or
- (b) any leasehold estate,

whether subsisting at law or in equity.

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#### Commencement Information

**I77** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 118 Meaning of “market value”

For the purposes of this Part “market value” shall be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) (see sections 272 to 274 of that Act).

#### Commencement Information

**I78** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 119 Meaning of “effective date” of a transaction

- (1) Except as otherwise provided, the effective date of a land transaction for the purposes of this Part is the date of completion.
- (2) Other provision as to the effective date of certain descriptions of land transaction is made by—
  - section 44(4) (contract and conveyance: contract substantially performed without having been completed), and
  - section 46(3) (options and rights of pre-emption).

#### Commencement Information

**I79** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### [<sup>F28</sup>120 Further provisions relating to leases

Schedule 17A contains further provisions relating to leases.]

#### Textual Amendments

**F28** S. 120 substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(1)**

### 121 Minor definitions

In this Part—

- “assignment”, in Scotland, means assignation;
- “completion”, in Scotland, means—
  - (a) in relation to a lease, when it is executed by the parties (that is to say, by signing) or constituted by any means;
  - (b) in relation to any other transaction, the settlement of the transaction;
- “employee” includes an office-holder and related expressions have a corresponding meaning;

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“jointly entitled” means—

- (a) in England and Wales, beneficially entitled as joint tenants or tenants in common,
- (b) in Scotland, entitled as joint owners or owners in common,
- (c) in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;

“land” includes—

- (a) buildings and structures, and
- (b) land covered by water;

“registered social landlord” means—

- (a) in relation to England and Wales, a body registered as a social landlord in a register maintained under section 1(1) of the Housing Act 1996 (c. 52);
- (b) in relation to Scotland, a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10);
- (c) in relation to Northern Ireland, a housing association registered in the register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));

“standard security” has the meaning given by the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35);

“statutory provision” means any provision made by or under an Act of Parliament, an Act of the Scottish Parliament or any Northern Ireland legislation;

“surrender”, in Scotland, means renunciation;

“tax”, unless the context otherwise requires, means tax under this Part.

#### **Commencement Information**

**180** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## **122 Index of defined expressions**

In this Part the expressions listed below are defined or otherwise explained by the provisions indicated—

acquisition relief	Schedule 7, paragraph 8(1)
assignment (in Scotland)	section 121
bare trust	Schedule 16, paragraph 1(2)
the Board (in relation to the Inland Revenue)	section 42(3)
chargeable consideration	section 50 and Schedule 4
chargeable interest	section 48(1)
chargeable transaction	section 49
charities relief	Schedule 8, paragraph 1(1)
closure notice	Schedule 10, paragraph 23(1) (in relation to a land transaction return); Schedule 11,

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	paragraph 16(1) (in relation to a self-certificate)
company	section 100 (except as otherwise expressly provided)
completion (in Scotland)	section 121
contingent (in relation to consideration)	section 51(3)
delivery (in relation to a land transaction return)	Schedule 10, paragraph 2(2)
discovery assessment	Schedule 10, paragraph 28(1)
effective date (in relation to a land transaction)	section 119
employee	section 121
exempt interest	section 48(2) to (5)
filing date (in relation to a land transaction return)	Schedule 10, paragraph 2(1)
implementation date	Schedule 19, paragraph 2(2)
the Inland Revenue	section 113
jointly entitled	section 121
land	section 121
land transaction	section 43(1)
land transaction return	section 76(1)
lease (and related expressions)	[ <sup>F29</sup> Schedule 17A]
linked transactions	section 108
main subject-matter (in relation to a land transaction)	section 43(6)
major interest (in relation to land)	section 117
market value	section 118
notice of enquiry	Schedule 10, paragraph 12(1) (in relation to a land transaction return); Schedule 11, paragraph 7(1) (in relation to a self-certificate)
notifiable (in relation to a land transaction)	section 77
partnership (and related expressions)	Schedule 15, paragraphs 1 to 4
purchaser	section 43(4)
rate of tax	section 55(7)
reconstruction relief	Schedule 7, paragraph 7(1)
registered social landlord	section 121
residential property	section 116



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[ <sup>F30</sup> Revenue certificate]	[ <sup>F30</sup> section 79(3)(a)]
Revenue determination	Schedule 10, paragraph 25(1)
self-assessment	section 76(3)(a)
self-certificate	section 79(3)(b)
settlement	Schedule 16, paragraph 1(1)
standard security	section 121
statutory provision	section 121
subject-matter (in relation to a land transaction)	section 43(6)
substantial performance (in relation to a contract)	section 44(5) to (7)
surrender (in Scotland)	section 121
tax	section 121
uncertain (in relation to consideration)	section 51(3)
unit holder	section 101(4)
unit trust scheme	section 101(4)
vendor	section 43(4)

#### Textual Amendments

- F29** Words in s. 122 substituted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(8)**
- F30** Words in s. 122 inserted (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 11(4)**

#### Commencement Information

- I81** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### *Final provisions*

#### 123 Consequential amendments

- (1) Schedule 18 contains certain amendments consequential on the provisions of this Part.
- (2) The Treasury may by regulations make such other amendments and repeals as appear to them appropriate in consequence of the provisions of this Part.
- (3) The regulations may, in particular, make such provision as the Treasury think fit for reproducing in relation to stamp duty land tax the effect of enactments providing for exemption from stamp duty.

#### Commencement Information

- I82** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

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## **124 Commencement and transitional provisions**

Schedule 19 makes provision for and in connection with the coming into force of the provisions of this Part.

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### **Commencement Information**

**183** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**Status:**

Point in time view as at 07/04/2004.

**Changes to legislation:**

Finance Act 2003, Part 4 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.