

*These notes relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11) which received Royal Assent on 24 March 2016*

# **LAND AND BUILDINGS TRANSACTION TAX (AMENDMENT) (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 1 – Land and buildings transaction tax: second homes etc.***

##### **Part 6 of schedule 2A – Ownership of dwellings**

##### **Paragraph 15 of schedule 2A – Deemed ownership: long leases**

69. Paragraph 15 deems the tenant’s interest in a long lease (a lease of more than 20 years) to be ownership. The landlord’s interest is not treated as ownership. Long residential leases are very uncommon in Scots law but some are still in existence and are to be counted, including some which are not (for technical reasons) “qualifying leases” (as mentioned in paragraph 3 of schedule 1 to the 2013 Act). Long residential leases are much more common in England and Wales and similar legal systems where the tenant’s interest is known as “leasehold”. Read with paragraph 18(2) where appropriate it is paragraph 15 which brings leasehold title within the meaning of ownership in schedule 2A. Tenancies which are short but of indefinite duration, such as the private residential tenancy under the Private Housing (Tenancies) (Scotland) Bill, are not to be treated as long residential leases.