



# Finance Act 2003

## 2003 CHAPTER 14

### PART 5

#### STAMP DUTY

#### **125 Abolition of stamp duty except on instruments relating to stock or marketable securities**

- (1) Stamp duty is chargeable under Schedule 13 of the Finance Act 1999 (c. 16) only on instruments relating to stock or marketable securities.
- (2) Section 12 of the Finance Act 1895 (c. 16) (collection of stamp duty in cases of property vested by Act or purchased under statutory powers) does not apply to property other than stock or marketable securities.
- (3) This section shall be construed as one with the Stamp Act 1891 (c. 39).
- (4) Part 1 of Schedule 20 to this Act contains provisions supplementing this section and Part 2 of that Schedule provides for consequential amendments and repeals.
- (5) This section and that Schedule have effect—
  - (a) in relation to an instrument effecting a land transaction [<sup>F1</sup>(or any duplicate or counterpart of such an instrument)], if the transaction—
    - (i) is an SDLT transaction within the meaning of Schedule 19 to this Act (stamp duty land tax: commencement and transitional provisions), or
    - (ii) would be such a transaction but for an exemption or relief from stamp duty land tax;
  - (b) in relation to an instrument effecting a transaction other than a land transaction [<sup>F2</sup>(or any duplicate or counterpart of such an instrument)], if the instrument is executed on or after the implementation date for the purposes of stamp duty land tax (see paragraph 2(2) of that Schedule).

For this purpose an instrument effecting both a land transaction and a transaction other than a land transaction [<sup>F3</sup>(or any duplicate or counterpart of such an instrument)] is

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treated as if it were two instruments to which paragraph (a) and paragraph (b) above respectively applied.

- (6) Where in the case of an instrument effecting both a land transaction and a transaction other than a land transaction the result of applying subsection (5) is that stamp duty is chargeable on either or both of the deemed instruments, the enactments relating to stamp duty have effect as if—
- (a) there were two instruments as mentioned in the closing words of that subsection,
  - (b) the consideration had been apportioned between them in a just and reasonable manner, and
  - (c) the amount found on that apportionment to be attributable to the chargeable instrument, or (as the case may be) to each of them, had been set forth distinctly in that instrument.
- (7) In subsections (5) and (6) “land transaction” has the same meaning as in Part 4 of this Act.
- (8) This section and Schedule 20 have effect subject to [F4 paragraph 31] of Schedule 15 to this Act (continued application of stamp duty in relation to certain partnership transactions).

#### Textual Amendments

- F1** Words in s. 125(5)(a) inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 23\(a\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)
- F2** Words in s. 125(5)(b) inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 23\(b\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)
- F3** Words in s. 125(5) inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 23\(c\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)
- F4** Words in s. 125(8) substituted (with effect in accordance with Sch. 41 para. 3 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 41 para. 2\(b\)](#)

## 126 Circumstances in which group relief withdrawn

- (1) Section 111 of the Finance Act 2002 (c. 23) (stamp duty: withdrawal of group relief) is amended as follows.
- (2) In subsection (1)(b) (circumstances in which relief withdrawn: transferee company ceasing to be member of group within two years) for “two years” substitute “ three years ”.
- (3) In subsection (1)(c) (circumstances in which relief withdrawn: transferee company holding estate or interest when it ceases to be member of group)—

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- (a) in the opening words—
    - (i) for “it ceases” substitute “ the transferee company ceases ”, and
    - (ii) for “it holds” substitute “ it or a relevant associated company holds ”;
  - (b) in sub-paragraph (i) for “to it” substitute “ to the transferee company ”; and
  - (c) for the closing words substitute “ and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed ”.
- (4) In subsection (3)—
- (a) after “transferred” insert “ to the transferee company ”, and
  - (b) for “what the transferee company holds at the time it ceases to be a member” substitute “ what is held by that company or, as the case may be, that company and any relevant associated companies, at the time it or they cease to be members ”.
- (5) After subsection (4) insert—
- “(4A) In this section “relevant associated company”, in relation to the transferee company, means a company that—
- (a) is a member of the same group as the transferee company immediately before that company ceases to be a member of the same group as the transferor company, and
  - (b) ceases to be a member of the same group as the transferor company in consequence of the transferee company so ceasing.”.
- (6) In paragraph 4(3) of Schedule 34 to the Finance Act 2002 (c. 23) (withdrawal of group relief: supplementary provisions), in paragraph (b)—
- (a) in the opening words—
    - (i) for “it ceases” substitute “ the transferee company ceases ”, and
    - (ii) for “it holds” substitute “ it or a relevant associated company (as defined in sub-paragraph (4) below) holds ”;
  - (b) in sub-paragraph (i) for “to it” substitute “ to the transferee company ”; and
  - (c) for the closing words substitute “ and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed ”.
- (7) In the closing words of that sub-paragraph, for the words from “as if” to the end substitute “ as if the transferee had then ceased to be a member of the same group as the transferor company and had then held the estate or interest referred to in paragraph (b). ”.
- (8) After that sub-paragraph insert—
- “(4) In sub-paragraph (3)(b) “relevant associated company”, in relation to the transferee company, means a company that is in the same group as the transferee company immediately before the transferee company ceases to be a member of the new group and which ceases to be a member of the new group in consequence of the transferee company so ceasing.”.
- (9) This section applies to instruments executed after 14th April 2003.
- (10) But this section does not apply to an instrument giving effect to a contract made on or before 9th April 2003, unless—

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- (a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right, or
- (b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(11) This section shall be deemed to have come into force on 15th April 2003.

## **127 Circumstances in which relief for company acquisitions withdrawn**

- (1) Section 113 of the Finance Act 2002 (c. 23) (stamp duty: withdrawal of relief for company acquisitions) is amended as follows.
- (2) In subsection (1)(b) (circumstances in which relief withdrawn: change of control of acquiring company within two years) for “two years” substitute “three years”.
- (3) In subsection (1)(c) (circumstances in which relief withdrawn: acquiring company holding estate or interest when control changes)—
  - (a) in the opening words, after “the acquiring company” insert “or a relevant associated company”;
  - (b) in sub-paragraph (i) for “to it” substitute “to the acquiring company”; and
  - (c) for the closing words substitute “and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed”.
- (4) In subsection (3) for “what the acquiring company holds” substitute “what is held by that company or, as the case may be, by that company and any relevant associated companies”.
- (5) After subsection (3) insert—
 

“(3A) In this section “relevant associated company”, in relation to the acquiring company, means a company—

  - (a) that is controlled by the acquiring company immediately before the control of that company changes, and
  - (b) of which control changes in consequence of the change of control of that company.”.
- (6) In Schedule 35 to the Finance Act 2002 (withdrawal of relief for company acquisitions: supplementary provisions), in paragraphs 3(3)(b) and 4(3)(b) (withdrawal of relief on later change of control)—
  - (a) in the opening words, after “the acquiring company” insert “or a relevant associated company”;
  - (b) in sub-paragraph (i) for “to it” substitute “to the acquiring company”; and
  - (c) for the closing words substitute “and that has not subsequently been transferred at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed”.
- (7) This section applies to instruments executed after 14th April 2003.
- (8) But this section does not apply to an instrument giving effect to a contract made on or before 9th April 2003, unless—
  - (a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right, or

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- (b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract because of an assignment (or, in Scotland, assignation) or further contract made after that date.
- (9) This section shall be deemed to have come into force on 15th April 2003.

## **128 Exemption of certain leases granted by registered social landlords**

- (1) No stamp duty is chargeable under Part 2 of Schedule 13 to the Finance Act 1999 (c. 16) on a lease of a dwelling granted by a registered social landlord to one or more individuals in accordance with arrangements to which this section applies if the lease is for an indefinite term or is terminable by notice of a month or less.
- (2) “Registered social landlord” means—
- (a) in relation to England and Wales, a body registered in the 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)).
- (3) This section applies to arrangements between a registered social landlord and a housing authority under which the landlord provides, for individuals nominated by the authority in pursuance of its statutory housing functions, temporary rented accommodation which the landlord itself has obtained on a short-term basis.

The reference above to accommodation obtained by the landlord “on a short-term basis” is to accommodation leased to the landlord for a term of five years or less.

- (4) A “housing authority” means—
- (a) in relation to England and Wales—
    - (i) a principal council within the meaning of the Local Government Act 1972 (c. 70), or
    - (ii) the Common Council of the City of London;
  - (b) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
  - (c) in relation to Northern Ireland—
    - (i) the Department for Social Development in Northern Ireland, or
    - (ii) the Northern Ireland Housing Executive.
- (5) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be taken to be duly stamped unless—
- (a) it is stamped with the duty to which it would be liable but for this section, or
  - (b) it has, in accordance with section 12 of the Stamp Act 1891 (c. 39), been stamped with a particular stamp denoting that it is not chargeable with any duty.
- (6) This section shall be construed as one with the Stamp Act 1891.
- (7) This section applies to instruments executed after the day on which this Act is passed.

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## 129 Relief for certain leases granted before section 128 has effect

- (1) This section applies to instruments that—
  - (a) are executed in the period beginning with 1 January 2000 and ending with the day on which this Act is passed, and
  - (b) are instruments to which section 128 (exemption of certain leases granted by registered social landlords) would have applied if that provision had been in force when the instrument was executed.
- (2) If the instrument is not stamped until after the day on which this Act is passed, the law in force at the time of its execution shall be deemed for stamp duty purposes to be what it would have been if section 128 had been in force at that time.
- (3) If the Commissioners are satisfied that—
  - (a) the instrument was stamped on or before the day on which this Act is passed,
  - (b) stamp duty was chargeable in respect of it, and
  - (c) had it been stamped after that day stamp duty would, by virtue of section 128, not have been chargeable,
 they shall pay to such person as they consider appropriate an amount equal to the duty (and any interest or penalty) that would not have been payable if that section had been in force at the time the instrument was executed.
- (4) Any such payment must be claimed before 1st January 2004.
- (5) Entitlement to a payment is subject to compliance with such conditions as the Commissioners may determine with respect to the production of the instrument, to its being stamped so as to indicate that it has been produced under this section or to other matters.
- (6) For the purposes of [F5 section 44 of the Commissioners for Revenue and Customs Act 2005 (payment into Consolidated Fund)] any amount paid under this section is a repayment.
- (7) This section shall be construed as one with the Stamp Act 1891.
- (8) For the purposes of this section as it applies in relation to instruments executed before the coming into force of section 57 of the Housing (Scotland) Act 2001 (asp 10), the references in section 128 to a registered social landlord shall be read in relation to Scotland as references to—
  - (a) a housing association registered in the register maintained under section 3(1) of the Housing Associations Act 1985 (c. 69) by Scottish Homes, or
  - (b) a body corporate whose objects corresponded to those of a housing association and which, pursuant to a contract with Scottish Homes, was registered in a register kept for the purpose by Scottish Homes.

### Textual Amendments

**F5** Words in s. 129(6) substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 126**; S.I. 2005/1126, art. 2(2)(h)

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### **130 Registered social landlords: treatment of certain leases granted between 1st January 1990 and 27 March 2000**

- (1) This section applies to a lease in relation to which the following conditions are met—
  - (a) it is a lease of a dwelling to one or more individuals;
  - (b) it is for an indefinite term or is terminable by notice of a month or less;
  - (c) it was executed on or after 1st January 1990 and before 28th March 2000;
  - (d) at the time it was executed the rate or average rate of the rent (whether reserved as a yearly rent or not) was £5,000 a year or less; and
  - (e) the landlord's interest has at any time before 26th June 2003 been held by a registered social landlord.
- (2) A lease to which this section applies (whether or not presented for stamping) shall be treated—
  - (a) for the purposes of section 14 of the Stamp Act 1891 (c. 39) (production of instrument in evidence) as it applies in relation to proceedings begun after the day on which this Act is passed, and
  - (b) for the purposes of section 17 of that Act (enrolment etc of instrument) as it applies to any act done after that day,as if it had been duly stamped in accordance with the law in force at the time when it was executed.
- (3) If in the case of a lease to which this section applies the Commissioners are satisfied—
  - (a) that the instrument was stamped on or before the day on which this Act is passed, and
  - (b) that stamp duty was charged in respect of it,they shall pay to such person as they consider appropriate an amount equal to the duty (and any interest or penalty) so charged.
- (4) Any such payment must be claimed before 1st January 2004.
- (5) Entitlement to a payment under subsection (3) is subject to compliance with such conditions as the Commissioners may determine with respect to the production of the instrument, to its being stamped so as to indicate that it has been produced under this section or to other matters.
- (6) For the purposes of [<sup>F6</sup>section 44 of the Commissioners for Revenue and Customs Act 2005 (payment into Consolidated Fund)] any amount paid under subsection (3) above is a repayment.
- (7) This section shall be construed as one with the Stamp Act 1891.
- (8) The reference in subsection (1) above to the landlord's interest being held by a "registered social landlord" is to its being held by a body that—
  - (a) is registered in a register maintained under—
    - (i) Article 124 of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)),
    - (ii) section 3(1) of the Housing Associations Act 1985 (c. 69),
    - (iii) Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)),
    - (iv) section 1(1) of the Housing Act 1996 (c. 52), or
    - (v) section 57 of the Housing (Scotland) Act 2001 (asp 10), or

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- (b) is a body corporate whose objects correspond to those of a housing association and which, pursuant to a contract with Scottish Homes, is registered in a register kept for the purposes by Scottish Homes.
- (9) Section 129 of this Act (relief for certain leases granted on or after 1st January 2000) does not apply to a lease to which this section applies.

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**Textual Amendments**

- F6** Words in s. 130(6) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005](#) (c. 11), s. 53(1), [Sch. 4 para. 127](#); S.I. 2005/1126, art. 2(2)(h)



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