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SCHEDULES

SCHEDULE 9

Section 70

STAMP DUTY LAND TAX: RIGHT TO BUY, SHARED OWNERSHIP LEASES ETC

Right to buy transactions

- 1 (1) In the case of a right to buy transaction—
- (a) section 51(1) (contingent consideration to be included in chargeable consideration on assumption that contingency will occur) does not apply, and
 - (b) any consideration that would be payable only if a contingency were to occur, or that is payable only because a contingency has occurred, does not count as chargeable consideration.
- (2) A “right to buy transaction” means—
- (a) the sale of a dwelling at a discount, or the grant of a lease of a dwelling at a discount, by a relevant public sector body, or
 - (b) the sale of a dwelling, or the grant of a lease of a dwelling, in pursuance of the preserved right to buy.
- (3) The following are relevant public sector bodies for the purposes of sub-paragraph (2) (a):

Government

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

Local Government

A local housing authority within the meaning of the Housing Act 1985 (c. 68)
A county council in England
A council constituted under section 2 of the Local Government etc.
(Scotland) Act 1994 (c. 39), the common good of such a council or any trust under its control
A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

Social housing

The Housing Corporation
Scottish Homes

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The Northern Ireland Housing Executive

A registered social landlord

A housing action trust established under Part 3 of the Housing Act 1988 (c. 50)

New towns and development corporations [F¹ etc.]

The [F²Homes and Communities Agency]

A development corporation established by an order made, or having effect as if made, under the New Towns Act 1981 (c. 64)

A development corporation established by an order made, or having effect as if made, under the New Towns (Scotland) Act 1968 (c. 16)

A new town commission established under section 7 of the New Towns Act (Northern Ireland) 1965 (c. 13 (N.I.))

An urban development corporation established by an order made under section 135 of the Local Government, Planning and Land Act 1980 (c. 65)

F³

...

Police

A police authority within the meaning of section 101(1) of the Police Act 1996 (c. 16)

A police authority within the meaning of section 2(1) or 19(9)(b) of the Police (Scotland) Act 1967 (c. 77)

The Northern Ireland Policing Board

Miscellaneous

An Education and Libraries Board within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

The United Kingdom Atomic Energy Authority

Any person mentioned in paragraphs (g), (k), (l) or (n) of section 61(11) of the Housing (Scotland) Act 1987 (c. 26)

A body prescribed for the purposes of this sub-paragraph by Treasury order.

(4) For the purposes of sub-paragraph (2)(b) the transfer of a dwelling, or the grant of a lease of a dwelling, is made in pursuance of the preserved right to buy if—

(a) the vendor is—

(i) in England and Wales, a person against whom the right to buy under Part 5 of the Housing Act 1985 (c. 68) is exercisable by virtue of section 171A of that Act, or

(ii) in Scotland, a person against whom the right to buy under section 61 of the Housing (Scotland) Act 1987 is exercisable by virtue of section 81A of that Act,

(which provide for the preservation of the right to buy on disposal to a private sector landlord),

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- (b) the purchaser is the qualifying person for the purposes of the preserved right to buy, and
 - (c) the dwelling is the qualifying dwelling-house in relation to the purchaser.
- (5) A grant under section 20 or 21 of the Housing Act 1996 (c. 52) (purchase grants in respect of disposals at a discount by registered social landlords) does not count as part of the chargeable consideration for a right to buy transaction in relation to which the vendor is a registered social landlord.

Textual Amendments

- F1** Word in Sch. 9 para. 1(3) inserted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 80\(2\)\(a\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F2** Words in Sch. 9 para. 1(3) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 80\(2\)\(b\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F3** Words in Sch. 9 para. 1(3) omitted (1.4.2006) by virtue of [The Welsh Development Agency \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3226\)](#), arts. 1(2), 7, [Sch. 2 para. 14](#) (with art. 3(1))

Modifications etc. (not altering text)

- C1** Sch. 9 para. 1(3) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, [Sch. para. 1](#) (with art. 6) (see S.I. 2008/3068, art. 2(1)(b))

Shared ownership lease: election for market value treatment

- 2 (1) This paragraph applies where—
- (a) a lease is granted—
 - (i) by a qualifying body, or
 - (ii) in pursuance of the preserved right to buy,
 - (b) the conditions in sub-paragraph (2) are met, and
 - (c) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) The conditions are as follows—
- (a) the lease must be of a dwelling;
 - (b) the lease must give the lessee or lessees exclusive use of the dwelling;
 - (c) the lease must provide for the lessee or lessees to acquire the reversion;
 - (d) the lease must be granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
 - (i) the market value of the dwelling, or
 - (ii) a sum calculated by reference to that value;
 - (e) the lease must contain a statement of—
 - (i) the market value of the dwelling, or
 - (ii) the sum calculated by reference to that value,by reference to which the premium is calculated.
- (3) An election for tax to be charged in accordance with this paragraph must be included in the land transaction return made in respect of the grant of the lease, or in an amendment of that return, and is irrevocable, so that the return may not be amended so as to withdraw the election.

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- (4) Where this paragraph applies the chargeable consideration for the grant of the lease shall be taken to be the amount stated in the lease in accordance with sub-paragraph (2)(e)(i) or (ii).

As to the tax treatment of the acquisition of the reversion in pursuance of the lease, see paragraph 3.

- [^{F4}(4A) Where this paragraph applies no account shall be taken for the purposes of stamp duty land tax of the rent mentioned in sub-paragraph (2)(d).]

- (5) Section 118 (meaning of “market value”) does not apply in relation to the reference in sub-paragraph (2)(e) above to the market value of the dwelling.

Textual Amendments

F4 Sch. 9 para. 2(4A) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 78

Transfer of reversion under shared ownership lease where election made for market value treatment

- 3 The transfer of the reversion to the lessee or lessees under the terms of a lease to which paragraph 2 applies (shared ownership lease: election for market value treatment) is exempt from charge if—
- (a) an election was made for tax to be charged in accordance with that paragraph, and
 - (b) any tax chargeable in respect of the grant of the lease has been paid.

Shared ownership lease: election where staircasing allowed

- 4 (1) This paragraph applies where—
- (a) a lease is granted by a qualifying body or in pursuance of the preserved right to buy,
 - (b) the conditions in sub-paragraph (2) below are met, and
 - (c) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) The conditions are as follows—
- (a) the lease must be of a dwelling;
 - (b) the lease must give the lessee or lessees exclusive use of the dwelling;
 - (c) the lease must provide that the lessee or lessees may, on the payment of a sum, require the terms of the lease to be altered so that the rent payable under it is reduced;
 - (d) the lease must be granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
 - (i) the premium obtainable on the open market for the grant of a lease containing the same terms as the lease but with the substitution of the minimum rent for the rent payable under the lease, or
 - (ii) a sum calculated by reference to that premium;
 - (e) the lease must contain a statement of the minimum rent and of—
 - (i) the premium obtainable on the open market, or
 - (ii) the sum calculated by reference to that premium,

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by reference to which the premium is calculated.

- (3) An election for tax to be charged in accordance with this paragraph must be included in the land transaction return made in respect of the grant of the lease, or in an amendment of that return, and is irrevocable, so that the return may not be amended so as to withdraw the election.
- (4) Where this paragraph applies—
 - (a) the rent in consideration of which the lease is granted shall be taken to be the minimum rent stated in the lease in accordance with sub-paragraph (2) (e), and
 - (b) the chargeable consideration for the grant other than rent shall be taken to be the amount stated in the lease in accordance with sub-paragraph (2)(e) (i) or (ii).
- (5) In this paragraph the “minimum rent” means the lowest rent which could become payable under the lease if it were altered as mentioned in sub-paragraph (2)(c) at the date when the lease is granted.

[^{F5}Shared ownership lease: treatment of staircasing transaction

Textual Amendments

- F5** Sch. 9 para. 4A and cross-heading inserted (with effect in accordance with s. 303(4) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 303(1)

- 4A (1) This paragraph applies where under a shared ownership lease—
- (a) the lessee or lessees have the right, on the payment of a sum, to require the terms of the lease to be altered so that the rent payable under it is reduced, and
 - (b) by exercising that right the lessee or lessees acquire an interest, additional to one already held, calculated by reference to the market value of the dwelling and expressed as a percentage of the dwelling or its value (a “share of the dwelling”).
- (2) Such an acquisition is exempt from charge if—
- (a) an election was made for tax to be charged in accordance with paragraph 2 or, as the case may be, paragraph 4 and any tax chargeable in respect of the grant of the lease has been paid, or
 - (b) immediately after the acquisition the total share of the dwelling held by the lessee or lessees does not exceed 80%.
- (3) In this paragraph “shared ownership lease” means a lease granted—
- (a) by a qualifying body, or
 - (b) in pursuance of the preserved right to buy,
- in relation to which the conditions in paragraph 2(2) or 4(2) are met.
- (4) Section 118 (meaning of “market value”) does not apply in relation to the references in this paragraph to the market value of the dwelling.]

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[^{F6}Shared ownership lease: grant not linked with staircasing transactions etc

Textual Amendments

F6 Sch. 9 para. 4B and cross-heading inserted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(8\)](#)

- 4B (1) For the purpose of determining the rate of tax chargeable on the grant of a shared ownership lease of a dwelling, the grant shall be treated as if it were not linked to—
- (a) any acquisition of an interest in the dwelling to which paragraph 4A applies, or
 - (b) a transfer of the reversion to the lessee or lessees under the terms of the lease.
- (2) In this paragraph “shared ownership lease” has the same meaning as in paragraph 4A.]

Shared ownership leases: meaning of “qualifying body” and “preserved right to buy”

- 5 (1) This paragraph has effect for the purposes of paragraphs [^{F7}2, 4 and 4A] (shared ownership leases: election as to basis of taxation).
- (2) A “qualifying body” means—
- (a) a local housing authority within the meaning of the Housing Act 1985 (c. 68);
 - (b) a housing association within the meaning of—
 - (i) the Housing Associations Act 1985 (c. 69), or
 - (ii) Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));
 - (c) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50);
 - (d) the Northern Ireland Housing Executive;
 - [^{F8}(e) the Homes and Communities Agency;]
 - (f) a development corporation established by an order made, or having effect as if made, under the New Towns Act 1981 (c. 64).
- (3) A lease is granted “in pursuance of the preserved right to buy” if—
- (a) the vendor is a person against whom the right to buy under Part 5 of the Housing Act 1985 is exercisable by virtue of section 171A of that Act (preservation of right to buy on disposal to private sector landlord),
 - (b) the lessee is, or lessees are, the qualifying person for the purposes of the preserved right to buy, and
 - (c) the lease is of a dwelling that is the qualifying dwelling-house in relation to the purchaser.

Textual Amendments

F7 Words in Sch. 9 para. 5(1) substituted (with effect in accordance with s. 303(4) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 303\(2\)](#)

F8 Sch. 9 para. 5(2)(e) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 80\(3\)](#); S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)

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Rent to mortgage or rent to loan: chargeable consideration

- 6 (1) The chargeable consideration for a rent to mortgage or rent to loan transaction is determined in accordance with this paragraph.
- (2) A “rent to mortgage transaction” means—
- (a) the transfer of a dwelling to a person, or
 - (b) the grant of a lease of a dwelling to a person,
- pursuant to the exercise by that person of the right to acquire on rent to mortgage terms under Part 5 of the Housing Act 1985 (c. 68).
- (3) The chargeable consideration for such a transaction is equal to the price that, by virtue of section 126 of the Housing Act 1985, would be payable for—
- (a) a transfer of the dwelling to the person (where the rent to mortgage transaction is a transfer), or
 - (b) the grant of a lease of the dwelling to the person (where the rent to mortgage transaction is the grant of a lease),
- if the person were exercising the right to buy under Part 5 of that Act.
- (4) A “rent to loan transaction” means the execution of a heritable disposition in favour of a person pursuant to the exercise by that person of the right to purchase a house by way of the rent to loan scheme in Part 3 of the Housing (Scotland) Act 1987 (c. 26).
- (5) The chargeable consideration for such a transaction is equal to the price that, by virtue of section 62 of the Housing (Scotland) Act 1987, would be payable for the house if the person were exercising the right to purchase under section 61 of that Act.

Shared ownership trust: introduction

- [^{F97} (1) In this Schedule “shared ownership trust” means a trust of land, within the meaning of section 1 of the Trusts of Land and Appointment of Trustees Act 1996, which satisfies the following conditions.
- (2) Condition 1 is that the trust property is—
- (a) a dwelling, and
 - (b) in England or Wales.
- (3) Condition 2 is that one of the beneficiaries (“the social landlord”) is a qualifying body (within the meaning of paragraph 5(2)).
- (4) Condition 3 is that the terms of the trust—
- (a) provide for one or more of the individual beneficiaries (“the purchaser”) to have exclusive use of the trust property as the only or main residence of the purchaser,
 - (b) require the purchaser to make an initial payment to the social landlord (“the initial capital”),
 - (c) require the purchaser to make additional payments to the social landlord by way of compensation under section 13(6)(a) of the Trusts of Land and Appointment of Trustees Act 1996 (“rent-equivalent payments”),
 - (d) enable the purchaser to make other additional payments to the social landlord (“equity-acquisition payments”),
 - (e) determine the initial beneficial interests of the social landlord and of the purchaser by reference to the initial capital,

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- (f) specify a sum, equating or relating to the market value of the dwelling, by reference to which the initial capital was calculated, and
 - (g) provide for the purchaser's beneficial interest in the trust property to increase, and the social landlord's to diminish (or to be extinguished), as equity-acquisition payments are made.
- (5) Section 118 (meaning of “market value”) does not apply to this paragraph.
- (6) In Condition 1 “dwelling” includes—
- (a) a building which is being constructed or adapted for use as a dwelling,
 - (b) land which is to be used for the purpose of the construction of a dwelling, and
 - (c) land which is, or is to become, the garden or grounds of a dwelling.

Textual Amendments

F9 Sch. 9 paras. 7-11 and cross-headings inserted (with effect in accordance with s. 77(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **s. 77(1)**

Shared ownership trust: “purchaser”

- 8 For the purposes of the application of stamp duty land tax in relation to a shared ownership trust, the person (or persons) identified as the purchaser in accordance with paragraph 7, and not the social landlord or any other beneficiary, is (or are) to be treated as the purchaser of the trust property.

Textual Amendments

F9 Sch. 9 paras. 7-11 and cross-headings inserted (with effect in accordance with s. 77(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **s. 77(1)**

Shared ownership trust: election for market value treatment

- 9 (1) This paragraph applies where—
- (a) a shared ownership trust is declared, and
 - (b) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) An election must be included in—
- (a) the land transaction return for the declaration of the shared ownership trust, or
 - (b) an amendment of that return.
- (3) An election may not be revoked.
- (4) Where this paragraph applies—
- (a) the chargeable consideration for the declaration of the shared ownership trust shall be taken to be the amount stated in accordance with paragraph 7(4)(f), and
 - (b) no account shall be taken for the purposes of stamp duty land tax of rent-equivalent payments.

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- (5) The transfer to the purchaser of an interest in the trust property upon the termination of the trust is exempt from charge if—
- (a) an election was made under this paragraph, and
 - (b) any tax chargeable in respect of the declaration of the shared ownership trust has been paid.

Textual Amendments

- F9** Sch. 9 paras. 7-11 and cross-headings inserted (with effect in accordance with s. 77(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 77\(1\)](#)

Shared ownership trust: treatment of staircasing transaction

- 10 (1) An equity-acquisition ^{F10}... payment under a shared ownership trust, and the consequent increase in the purchaser's beneficial interest, shall be exempt from charge if—
- (a) an election was made under paragraph 9, and
 - (b) any tax chargeable in respect of the declaration of trust has been paid.
- (2) An equity-acquisition ^{F11}... payment under a shared ownership trust, and the consequent increase in the purchaser's beneficial interest, shall also be exempt from charge if following the increase the purchaser's beneficial interest does not exceed 80% of the total beneficial interest in the trust property.

Textual Amendments

- F9** Sch. 9 paras. 7-11 and cross-headings inserted (with effect in accordance with s. 77(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 77\(1\)](#)
- F10** Word in Sch. 9 para. 10(1) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(9\)](#)
- F11** Word in Sch. 9 para. 10(2) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(9\)](#)

Shared ownership trust: treatment of additional payments where no election made

- 11 Where no election has been made under paragraph 9 in respect of a shared ownership trust—
- (a) the initial capital shall be treated for the purposes of stamp duty land tax as chargeable consideration other than rent, and
 - (b) any rent-equivalent ^{F12}... payment by the purchaser shall be treated for the purposes of stamp duty land tax as a payment of rent.]

Textual Amendments

- F9** Sch. 9 paras. 7-11 and cross-headings inserted (with effect in accordance with s. 77(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 77\(1\)](#)
- F12** Word in Sch. 9 para. 11(b) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(9\)](#)

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Shared ownership trust: declaration not linked with staircasing transactions etc

- [^{F13}12 For the purpose of determining the rate of tax chargeable on the declaration of a shared ownership trust, the declaration shall be treated as if it were not linked to—
- (a) any equity-acquisition payment under the trust or any consequent increase in the purchaser's beneficial interest in the trust property, or
 - (b) a transfer to the purchaser of an interest in the trust property upon the termination of the trust.]

Textual Amendments

F13 Sch. 9 para. 12 and cross-heading inserted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **s. 95(10)**

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