



Finance Act 2013

2013 CHAPTER 29

PART 3

ANNUAL TAX ON ENVELOPED DWELLINGS

Meaning of “dwelling”

112 Meaning of “dwelling”

- (1) A building or part of a building counts as a dwelling at any time when—
 - (a) it is used or suitable for use as a single dwelling, or
 - (b) it is in the process of being constructed or adapted for such use.
- (2) Land that is, or is at any time intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling at that time.
- (3) Land that subsists, or is at any time intended to subsist, for the benefit of a dwelling is taken to be part of the dwelling at that time.
- (4) A building, or part of a building, used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).
- (5) Where a building, or part of a building, is used for a purpose mentioned in subsection (4), no account is to be taken for the purposes of subsection (1) of its suitability for any other use.
- (6) If a building or part of a building becomes temporarily unsuitable for use as a dwelling for any reason (including accidental damage, repairs or any other physical change to the building or its environment), that temporary unsuitability is ignored in determining whether or not the building or part of a building is, during the period in question, a dwelling for the purposes of this Part.

This subsection does not affect any of the provisions in sections 126 to 131.

113 Substantial performance of “off plan” purchase

- (1) Subsection (2) applies where—
 - (a) a contract is entered into for the acquisition of a chargeable interest in or over land that consists of or includes a building, or part of a building, that is to be constructed or adapted for use as a single dwelling,
 - (b) substantial performance is treated as constituting the acquisition of the chargeable interest (under section 122), and
 - (c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.
- (2) The chargeable interest deemed to be acquired as mentioned in subsection (1)(b) is taken to be in or over land that consists of or (as appropriate) includes a dwelling.
- (3) If at any time after the substantial performance of the contract the obligation under the contract to carry out the construction or adaptation ceases to have effect without the construction or adaptation having been begun, subsection (2) ceases to apply at that time.
- (4) A building or part of a building used for a purpose specified in section 116(2) or (3) of FA 2003 is not used as a dwelling for the purposes of subsection (1).
- (5) In this section—
 - “contract” includes any agreement (including, in the case of Scotland, missives of let not constituting a lease);
 - “substantially performed” has the same meaning as in section 44 of FA 2003.

114 Power to modify meaning of “use as a dwelling”

- (1) The Treasury may by order amend this Part so as to specify cases where use of a building is to be use of a building as a dwelling for the purposes of section 112(1) or 113(1).
- (2) The reference in section 116(8)(a) of FA 2003 (power to amend section 116(2) and (3)) to “the purposes of subsection (1)” includes a reference to the purposes of sections 112(1) and 113(1).

115 Parts of a greater whole

- (1) The fact that a part of a building is suitable for use as a dwelling does not prevent that part from forming part of a larger single dwelling.
- (2) The fact that a building or structure that is—
 - (a) in the garden or grounds of a dwelling, and
 - (b) occupied or enjoyed with the dwelling,is itself suitable for use as a single dwelling does not prevent it from being treated (in accordance with section 112(2)) as part of the dwelling.

116 Dwelling in grounds of another dwelling

- (1) Subsection (4) applies where the conditions in subsection (2) are met in relation to two dwellings (the “main dwelling” and the “associated dwelling”) on a day (“the day in question”) in a chargeable period.
- (2) The conditions are that—
 - (a) the main dwelling has a garden or grounds,
 - (b) the associated dwelling stands within the garden or grounds of the main dwelling, but is not occupied or enjoyed with that dwelling,
 - (c) the associated dwelling does not have separate access, and is not part of the same building as the main dwelling, and
 - (d) the common ownership condition is met.
- (3) The common ownership condition is that—
 - (a) a company is entitled to a chargeable interest in the main dwelling, and the company or a person connected with the company is entitled to a chargeable interest in the associated dwelling, or
 - (b) a chargeable interest in the main dwelling is held for the purposes of a collective investment scheme, and a chargeable interest in the associated dwelling is held for the purposes of the same collective investment scheme.

(It does not matter whether or not the interest in the main dwelling and the interest in the associated dwelling are held for the same title.)
- (4) This Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (3) as if the main dwelling and the associated dwelling were, on the day in question, suitable for use as a single dwelling.
- (5) Subsection (4) does not apply if—
 - (a) the day in question is, in relation to the interest in the main dwelling or the interest in the associated dwelling, relievable by virtue of a provision mentioned in subsection (6), or
 - (b) the ownership condition is, by virtue of section 151 (charitable companies), regarded as not being met on that day with respect to one or other of those interests.
- (6) Those provisions are—
 - section 133 (property rental businesses);
 - section 134 (rental property: preparation for sale etc);
 - section 137 (dwellings opened to the public);
 - section 138 (property developers);
 - section 139 (property developers: exchange of dwellings);
 - section 141 (property traders);
 - section 143 (financial institutions acquiring dwellings in the course of lending);
 - section 145 (occupation by certain employees or partners);
 - section 148 (farmhouses);
 - section 150 (providers of social housing).
- (7) The reference in subsection (3)(a) to a person connected with the company does not include a public body (as defined in section 153) or a body listed in section 154(2) (bodies established for national purposes).

Status: This is the original version (as it was originally enacted).

- (8) The reference in subsection (3)(b) to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being entitled to the interest.
- (9) The associated dwelling has “separate access” only if—
- (a) there is access to the associated dwelling directly from a highway (in Scotland, a road) that the dwelling adjoins, or
 - (b) the person entitled to possession of the associated dwelling has access to that dwelling from a highway (in Scotland, a road), exclusively by passing over land that the person is entitled to pass over by reason of one or more rights of way or other interests in land to which the person is separately entitled.
- (10) In this section—
- in relation to a dwelling or dwellings, references to the “garden or grounds” are to land occupied or enjoyed with the dwelling or dwellings as a garden or grounds;
 - references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person;
 - “separately entitled” means entitled otherwise than by reason of a chargeable interest in or over the main dwelling.

117 Dwellings in the same building

- (1) Two parts of a building are “linked dwellings” if—
- (a) each of them counts as a dwelling,
 - (b) there is private access between the two dwellings,
 - (c) the two parts of the building are not (together) used or suitable for use as a single dwelling, and
 - (d) the common ownership condition and the use condition are met.
- (2) The common ownership condition is that—
- (a) a company is entitled to a chargeable interest in one of the dwellings, and the company or a person connected with the company is entitled to a chargeable interest in the other dwelling, or
 - (b) a chargeable interest in one of the dwellings is held for the purposes of a collective investment scheme, and a chargeable interest in the other dwelling is held for the purposes of the same collective investment scheme.
- (It does not matter whether or not the interests are held for the same title.)
- (3) If on a day in a chargeable period (“the day in question”) two parts of a building constitute linked dwellings, this Part has effect in relation to the interests mentioned in paragraph (a) or (as the case may be) (b) of subsection (2) as if the two parts were, on the day in question, suitable for use as a single dwelling.
- (4) Subsection (3) does not apply if—
- (a) the day in question is, in relation to a chargeable interest mentioned in subsection (2)(a) or (as the case may be) (2)(b), relievable by virtue of a provision mentioned in subsection (5), or
 - (b) (in a case where paragraph (a) of subsection (2) applies) the ownership condition is, by virtue of section 151 (charitable companies), regarded as not

being met on that day with respect to one or other of the chargeable interests mentioned in that paragraph.

- (5) Those provisions are—
- section 133 (property rental businesses);
 - section 134 (rental property: preparation for sale etc);
 - section 137 (dwellings opened to the public);
 - section 138 (property developers);
 - section 139 (property developers: exchange of dwellings);
 - section 141 (property traders);
 - section 143 (financial institutions acquiring dwellings in the course of lending);
 - section 145 (occupation by certain employees or partners);
 - section 148 (farmhouses);
 - section 150 (providers of social housing).
- (6) The reference in subsection (2)(a) to a person connected with the company does not include a public body (as defined in section 153) or a body listed in section 154(2) (bodies established for national purposes).
- (7) If two dwellings in a building (dwelling A and dwelling B) are treated under this section as suitable for use as a single dwelling, and dwelling B and a third dwelling in the building (“dwelling C”) are treated under this section as suitable for use as a single dwelling, all three are treated as suitable for use as a single dwelling (and so on).

118 Section 117: supplementary

- (1) The reference in section 117(2)(b) to a chargeable interest being held for the purposes of the same collective investment scheme includes a reference to a person connected with the scheme being entitled to the interest.
- (2) For the purposes of section 117, there is private access between two dwellings if the person entitled to possession of each dwelling is entitled, by reason of a right of way or other interest in land, to have access to that person’s dwelling from the other dwelling, without passing over any part of the building (or any other land) in which a third party has an interest entitling that third party to enter it.
- (3) In subsection (2) “third party” means a person other than—
- (a) the persons entitled to possession of the dwellings mentioned in subsection (2), and
 - (b) persons connected with any of them.
- (4) The use condition mentioned in section 117(1)(d) is that each of the two dwellings—
- (a) is occupied (or usually occupied) by a relevant individual,
 - (b) is intended to be so occupied (or usually so occupied), or
 - (c) is not occupied.
- (5) In subsection (4) “relevant individual” means—
- (a) an individual connected with the company mentioned in section 117(2)(a),
 - (b) an individual connected with the collective investment scheme mentioned in section 117(2)(b),
 - (c) an individual who occupies (or is to occupy) the dwelling concerned otherwise than on commercial terms, or

Status: This is the original version (as it was originally enacted).

- (d) an individual who is employed wholly or partly in connection with the occupation by a person falling within any of paragraphs (a) to (c) of a dwelling in the building, or provides services in connection with such a person's occupation of a dwelling in the building.
- (6) In this section references to the person entitled to possession of a dwelling are to the person entitled to possession of the dwelling by reason of an estate or interest held by that person.

119 Terraces etc

Any structure (such as a terrace of houses or a pair of semi-detached houses) that is composed of or includes dwellings is regarded as a building for the purposes of sections 117 and 118.