



# Finance Act 2000

## 2000 CHAPTER 17

### PART IV

#### STAMP DUTY AND STAMP DUTY RESERVE TAX

##### *Stamp duty*

#### **114 Rates: conveyance or transfer on sale**

- (1) In Schedule 13 to the Finance Act 1999 (instruments chargeable and rates of duty), in Part I (conveyance or transfer on sale), in the third column of the table in paragraph 4—
  - (a) in the third entry, for “2.5%” substitute “3%”; and
  - (b) in the fourth entry, for “3.5%” substitute “4%”.
- (2) This section applies to instruments executed on or after 28th March 2000.
- (3) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, 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
  - (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.
- (4) This section shall be deemed to have come into force on 28th March 2000.

#### **115 Rates: duty on lease chargeable by reference to rent**

- (1) In Schedule 13 to the Finance Act 1999 (instruments chargeable and rates of duty), in Part II (lease)—
  - (a) in paragraph 11, in paragraph 1 of the table, and
  - (b) in paragraph 12(3), in paragraph 1(a) and (b) of the table, for “£500” substitute “£5,000”.

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- (2) This section has effect in relation to instruments executed on or after 28th March 2000.
- (3) This section shall be deemed to have come into force on 28th March 2000.

#### **116 Rate of duty on seven year leases**

- (1) In paragraph 12(3) of Schedule 13 to the Finance Act 1999 (rates of stamp duty on leases where part of consideration is rent), in paragraph 1 of the table, for “less than 7 years” substitute “not more than 7 years”.
- (2) This section applies to instruments executed on or after 1st October 1999, subject to Schedule 32 to this Act (which makes transitional provision for instruments executed on or after 1st October 1999 but before 28th March 2000).
- (3) This section shall be deemed to have come into force on 28th March 2000.

#### **117 Power to vary stamp duties**

Schedule 33 to this Act (power to vary stamp duties) has effect.

#### **118 Land transferred etc for other property**

- (1) Subsection (2) applies where—
  - (a) an instrument transferring or vesting an estate or interest in land would not, apart from this section, be or fall to be treated as a conveyance or transfer on sale for the purposes of stamp duty; but
  - (b) the transfer or vesting of the estate or interest is for consideration; and
  - (c) the consideration is or includes any property (“the other property”).
- (2) For the purposes of Part I of Schedule 13 to the Finance Act 1999 (stamp duty on conveyance or transfer on sale) the instrument transferring or vesting the estate or interest shall be taken to be a transfer on sale of the estate or interest.
- (3) If—
  - (a) the other property is or includes one or more estates or interests in land, and
  - (b) *ad valorem* duty is chargeable on the conveyance or transfer of all or any of those estates or interests,
 the amount of duty that would (apart from this subsection) be chargeable in consequence of subsection (2) on the transfer on sale there mentioned shall be reduced (but not below nil) by the total of the *ad valorem* duty chargeable as mentioned in paragraph (b).
- (4) If, for the purposes of Part I of Schedule 13 to the Finance Act 1999, the amount or value of the consideration for the transfer on sale mentioned in subsection (2) would (apart from this subsection) exceed the market value of the estate or interest immediately before the execution of the instrument transferring or vesting it, the amount or value of the consideration shall be taken for those purposes to be equal to that market value.
- (5) For the purposes of this section, the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.

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- (6) Subsection (2) has effect even though—
  - (a) the transfer or vesting of the estate or interest is the whole or part of the consideration for a sale of the other property; or
  - (b) the transaction is by way of exchange.
- (7) Subsection (2) does not affect any charge to stamp duty in respect of the same or any other instrument so far as it relates to the transfer of the other property.
- (8) This section is subject to subsection (5) of section 119.
- (9) This section shall be construed as one with the Stamp Act 1891.
- (10) This section applies to instruments executed on or after 28th March 2000.
- (11) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, 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
  - (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.
- (12) This section shall be deemed to have come into force on 28th March 2000.

## **119 Transfer of land to connected company**

- (1) This section applies where an estate or interest in land is transferred to or vested in a company (“A”) and—
  - (a) the person transferring or vesting the estate or interest (“B”) is connected with A; or
  - (b) some or all of the consideration for the transfer or vesting consists of the issue or transfer of shares in a company with which B is connected.
- (2) For the purposes of Part I of Schedule 13 to the Finance Act 1999 (stamp duty on conveyance or transfer on sale) an instrument transferring or vesting the estate or interest shall be taken to be a transfer on sale of the estate or interest.
- (3) If for those purposes the amount or value of the consideration for the transfer on sale of the estate or interest would, apart from this subsection, be less than the value determined under subsection (4), the consideration shall be taken for those purposes to be the value determined under subsection (4).
- (4) That value is—
  - (a) the market value of the estate or interest immediately before the execution of the instrument transferring or vesting it; but
  - (b) reduced by the value of so much of any actual consideration as does not consist of property.
- (5) Where—
  - (a) apart from this section, an instrument would be chargeable to stamp duty in accordance with section 118, and
  - (b) apart from that section, the instrument would be chargeable to stamp duty in accordance with this section,

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the stamp duty chargeable on the instrument shall be determined in accordance with this section (instead of that section).

- (6) This section applies only if, in consequence of its application, the instrument transferring or vesting the estate or interest is chargeable with a greater amount of stamp duty than it would be apart from this section and section 118.
- (7) For the purposes of this section, the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.
- (8) 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.
- (9) For the purposes of this section, the question whether any person is connected with another shall be determined in accordance with the provisions of section 839 of the Taxes Act 1988.
- (10) This section shall be construed as one with the Stamp Act 1891.
- (11) This section applies to instruments executed on or after 28th March 2000.
- (12) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, 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
  - (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.
- (13) This section shall be deemed to have come into force on 28th March 2000.

## **120 Exceptions from section 119**

- (1) Section 119 does not apply by virtue of paragraph (a) of subsection (1) of that section in any of the following cases (any reference in this section to A or B being taken as a reference to the person referred to as A or B, as the case may be, in that subsection).
- (2) Case 1 is where B holds the estate or interest as nominee or bare trustee for A.
- (3) Case 2 is where A is to hold the estate or interest as nominee or bare trustee for B.
- (4) Case 3 is where B holds the estate or interest as nominee or bare trustee for some other person and A is to hold it as nominee or bare trustee for that other person.
- (5) Case 4 is where (in a case not falling within subsection (2) or (4) above)—
  - (a) the transfer or vesting is a conveyance or transfer out of a settlement in or towards satisfaction of a beneficiary’s interest;
  - (b) the beneficiary’s interest is not an interest acquired for money or money’s worth; and
  - (c) the conveyance or transfer is a distribution of property in accordance with the provisions of the settlement.
- (6) Case 5 is where (in a case not falling within subsection (3) above) A—

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- (a) is a person carrying on a business which consists of or includes the management of trusts; and
  - (b) is to hold the estate or interest as trustee acting in the course of that business.
- (7) Case 6 is where (in a case not falling within subsection (3) above) A is to hold the estate or interest as trustee and, apart from section 839(3) of the Taxes Act 1988 (trustees as connected persons), would not be connected with B.
- (8) Case 7 is where—
- (a) B is a company;
  - (b) the transfer or vesting is, or is part of, a distribution of assets (whether or not in connection with the winding up of the company); and
  - (c) the estate or interest was acquired by B by virtue of an instrument which is duly stamped.
- (9) This section shall be construed as one with the Stamp Act 1891.
- (10) This section applies to instruments executed after the day on which this Act is passed.

## **121 Grant of lease to connected company**

- (1) This section applies where a lease is granted to a company (“A”) and—
- (a) the person granting the lease (“B”) is connected with A; or
  - (b) some or all of the consideration for the grant of the lease consists of the issue or transfer of shares in a company with which B is connected.
- (2) Subsection (3) has effect for the purposes of stamp duty chargeable under Part II of Schedule 13 to the Finance Act 1999 (stamp duty on a lease) by reference to Part I of that Schedule (conveyance or transfer on sale).
- (3) If, apart from this subsection, the amount or value of the consideration for the grant would be less than the value determined under subsection (4), the consideration shall be taken to be the value determined under subsection (4).
- (4) That value is—
- (a) the market value, immediately before the instrument granting the lease is executed, of the lease granted; but
  - (b) reduced by the value of so much of any actual consideration as does not consist of property.
- (5) This section applies only if, in consequence of its application, the lease is chargeable with a greater amount of stamp duty than it would be apart from this section.
- (6) For the purposes of this section, the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.
- (7) 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.

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- (8) For the purposes of this section, the question whether any person is connected with another shall be determined in accordance with the provisions of section 839 of the Taxes Act 1988.
- (9) This section shall be construed as one with the Stamp Act 1891.
- (10) This section applies to instruments executed on or after 28th March 2000.
- (11) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, 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
  - (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.
- (12) This section shall be deemed to have come into force on 28th March 2000.

## **122 Marketable securities transferred etc for exempt property**

- (1) Subsection (2) applies where—
  - (a) an instrument transferring marketable securities would not, apart from this section, be or fall to be treated as a transfer on sale for the purposes of stamp duty; but
  - (b) the transfer of the marketable securities is for consideration; and
  - (c) the consideration is or includes any qualifying property (“the other property”).
- (2) For the purposes of Part I of Schedule 13 to the Finance Act 1999 (stamp duty on conveyance or transfer on sale) the instrument transferring the marketable securities shall be taken to be a transfer on sale of those securities.
- (3) If the amount or value of the consideration for that transfer on sale would (apart from this subsection) exceed the market value of the marketable securities immediately before the execution of the instrument transferring them, the amount or value of the consideration shall be taken to be equal to that market value.

For this purpose the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.

- (4) Subsection (2) has effect even though—
  - (a) the transfer of the marketable securities is the whole or part of the consideration for a sale of the other property; or
  - (b) the transaction is by way of exchange.
- (5) Subsection (2) does not affect any charge to stamp duty in respect of the same or any other instrument so far as it relates to the transfer of the other property.
- (6) In this section “qualifying property” means any debt due, stock or securities, to the extent that the debt, stock or securities are not chargeable securities, within the meaning of Part IV of the Finance Act 1986 (stamp duty reserve tax).
- (7) This section shall be construed as one with the Stamp Act 1891.
- (8) This section applies to instruments executed on or after 28th March 2000.

- (9) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, 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
  - (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.
- (10) This section shall be deemed to have come into force on 28th March 2000.

### **123 Transfer of property between associated companies: Great Britain**

- (1) Amend section 42 of the Finance Act 1930 as follows.
- (2) In subsection (2) (instruments on which stamp duty not chargeable) in paragraph (a) for “to another” substitute “(“the transferor”) to another (“the transferee”)”.
- (3) In that subsection, after paragraph (b) insert—
- “unless at the time the instrument is executed arrangements are in existence by virtue of which at that or some later time any person has or could obtain, or any persons together have or could obtain, control of the transferee but not of the transferor.”.
- (4) In subsection (2B) (body to be parent of another if beneficial owner of 75% of ordinary share capital) after “if at that time the first body” insert “(a)” and at the end of the subsection add—
- “(b) is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the second body; and
  - (c) would be beneficially entitled to not less than 75 per cent of any assets of the second body available for distribution to its equity holders on a winding-up.”.
- (5) In subsection (3)—
- (a) after “The ownership referred to in” insert “paragraph (a) of”; and
  - (b) for “this section” substitute “that paragraph”.
- (6) At the end of the section add—
- “(5) Schedule 18 to the Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraphs (b) and (c) of subsection (2B) as it applies for the purposes of paragraphs (a) and (b) of section 413(7) of that Act; but this is subject to subsection (6).
- (6) In determining for the purposes of this section whether a body corporate is the parent of the transferor, paragraphs 5(3) and 5B to 5E of Schedule 18 to the Income and Corporation Taxes Act 1988 shall not apply for the purposes of paragraph (b) or (c) of subsection (2B).
- (7) In this section, “control” shall be construed in accordance with section 840 of the Income and Corporation Taxes Act 1988.”.
- (7) This section has effect in relation to instruments executed after the day on which this Act is passed.

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## **124 Transfer of property between associated companies: Northern Ireland**

- (1) Amend section 11 of the Finance Act (Northern Ireland) 1954 as follows.
- (2) After subsection (2) (instruments on which stamp duty not chargeable) insert—
  - “(2A) But this section does not apply to an instrument by virtue of subsection (2)
    - (a) if, at the time the instrument is executed, arrangements are in existence by virtue of which at that or some later time any person has or could obtain, or any persons together have or could obtain, control of the transferee but not of the transferor.”.
- (3) In subsection (3AA) (body to be parent of another if beneficial owner of 75% of ordinary share capital) after “if at that time the first body” insert “(a)” and at the end of the subsection add—
  - “(b) is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the second body; and
  - (c) would be beneficially entitled to not less than 75 per cent of any assets of the second body available for distribution to its equity holders on a winding-up.”.
- (4) In subsection (3A)—
  - (a) after “The ownership referred to in” insert “paragraph (a) of”; and
  - (b) for “this section” substitute “that paragraph”.
- (5) At the end of the section add—
  - “(6) Schedule 18 to the Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraphs (b) and (c) of subsection (3AA) as it applies for the purposes of paragraphs (a) and (b) of section 413(7) of that Act; but this is subject to subsection (7).
  - (7) In determining for the purposes of this section whether a body corporate is the parent of the transferor, paragraphs 5(3) and 5B to 5E of Schedule 18 to the Income and Corporation Taxes Act 1988 shall not apply for the purposes of paragraph (b) or (c) of subsection (3AA).
  - (8) In this section, “control” shall be construed in accordance with section 840 of the Income and Corporation Taxes Act 1988.”.
- (6) This section has effect in relation to instruments executed after the day on which this Act is passed.

## **125 Grant of leases etc between associated companies**

- (1) Amend section 151 of the Finance Act 1995 as follows.
- (2) In subsection (1) (stamp duty not chargeable on leases etc) at the end insert the following paragraph—
 

“This subsection is subject to subsection (4A) below.”.
- (3) After subsection (4) insert—
  - “(4A) An instrument shall not be exempt from stamp duty by virtue of subsection (1) above if at the time the instrument is executed arrangements are in existence by virtue of which at that or some later time any person has or could obtain,



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or any persons together have or could obtain, control of the lessee but not of the lessor.”.

- (4) In subsection (8) (body to be parent of another if beneficial owner of 75% of ordinary share capital) after “if at that time the first body” insert “(a)” and at the end of the subsection add—

- “(b) is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the second body; and  
(c) would be beneficially entitled to not less than 75 per cent of any assets of the second body available for distribution to its equity holders on a winding-up.”.

- (5) In subsection (10)—

- (a) after “The ownership referred to in” insert “paragraph (a) of”; and  
(b) for “this section” substitute “that paragraph”.

- (6) After subsection (10) insert—

“(10A) Schedule 18 to the Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraphs (b) and (c) of subsection (8) as it applies for the purposes of paragraphs (a) and (b) of section 413(7) of that Act; but this is subject to subsection (10B).

(10B) In determining for the purposes of this section whether a body corporate is the parent of the lessor, paragraphs 5(3) and 5B to 5E of Schedule 18 to the Income and Corporation Taxes Act 1988 shall not apply for the purposes of paragraph (b) or (c) of subsection (8) above.

(10C) In this section, “control” shall be construed in accordance with section 840 of the Income and Corporation Taxes Act 1988.”.

- (7) This section has effect in relation to instruments executed after the day on which this Act is passed.

## **126 Future issues of stock**

- (1) Amend section 55 of the Stamp Act 1891 (calculation of ad valorem duty in respect of stock and securities) as follows.

- (2) After subsection (1) insert—

“(1A) For the purposes of subsection (1), it is immaterial—

- (a) whether, at the time of the execution of the conveyance on sale, the stock or marketable security is or has been issued or is to be issued; and  
(b) in a case where the stock or marketable security is to be issued, when it is to be, or is, issued and whether the issue is certain or contingent.”.

- (3) This section has effect in relation to instruments executed after the day on which this Act is passed.

## **127 Company acquisition reliefs: redeemable shares**

- (1) Amend section 75 of the Finance Act 1986 (acquisitions: reliefs) in accordance with subsections (2) and (3).

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- (2) In subsection (4), in paragraph (a) (which requires that the consideration for the acquisition consists of or includes the issue of shares) after “the issue of” insert “non-redeemable”.
- (3) In subsection (4), after paragraph (b) add—
  - “In paragraph (a) above, “non-redeemable shares” means shares which are not redeemable shares.”.
- (4) In section 76 of the Finance Act 1986 (acquisitions: further provisions about reliefs) in subsection (3)(a) (which requires that the consideration for the acquisition consists of or includes the issue of shares) for “shares” substitute “non-redeemable shares (within the meaning of section 75(4)(a) above)”.
- (5) This section has effect in relation to instruments executed after the day on which this Act is passed.

## **128 Surrender of leases**

- (1) Where a lease is or has been surrendered or, in Scotland, renounced at any time, a document evidencing the surrender or renunciation shall be treated for the purposes of stamp duty as if it were a deed executed at that time effecting the surrender or renunciation.
- (2) Stamp duty shall be chargeable by virtue of subsection (1) on a document containing a statutory declaration, notwithstanding anything in rule 316(1) of the Land Registration Rules 1925 or any other provision of those Rules or of any other rules (whenever made) under section 144 of the Land Registration Act 1925.
- (3) Stamp duty shall not be chargeable by virtue of subsection (1) on any lease or agreement for a lease or with respect to any letting if the lease or agreement—
  - (a) is made in consideration of the surrender or renunciation; and
  - (b) relates to the same subject matter as the lease surrendered or renounced.
- (4) Stamp duty shall not be chargeable by virtue of subsection (1) on any document if a document falling within subsection (5) has been duly stamped.
- (5) The documents that fall within this subsection are—
  - (a) a deed effecting the surrender or renunciation;
  - (b) an agreement which falls to be treated for the purposes of stamp duty as if it were such a deed;
  - (c) any document which falls to be so treated by virtue of subsection (1); and
  - (d) any lease or agreement falling within subsection (3).
- (6) A land registrar shall regard a document which by virtue of subsection (4) is not chargeable to stamp duty by virtue of subsection (1) as not duly stamped unless—
  - (a) it is stamped as if it were a deed effecting the surrender or renunciation; or
  - (b) it appears by some stamp impressed on it that the full and proper duty chargeable on such a deed has been paid on another document; or
  - (c) it appears by some stamp impressed on it that a lease or agreement falling within subsection (3) has been duly stamped; or
  - (d) the land registrar is aware of a document falling within subsection (5) which has been duly stamped.

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- (7) The documents which evidence the surrender or renunciation of a lease shall be taken to include an application, in consequence of the surrender or renunciation of the lease, for—
- (a) the making in a land register, or
  - (b) the removal from a land register, of an entry relating to the lease.
- (8) In this section—
- “land register”—
    - (a) in relation to England and Wales, means the register kept under section 1 of the Land Registration Act 1925;
    - (b) in relation to Scotland, means the Land Register of Scotland or the General Register of Sasines;
    - (c) in relation to Northern Ireland, means the register maintained under section 10 of the Land Registration Act (Northern Ireland) 1970;
  - “land registrar”—
    - (a) in relation to England and Wales, means the Chief Land Registrar or any other officer of Her Majesty’s Land Registry exercising functions of the Chief Land Registrar;
    - (b) in relation to Scotland, means the Keeper of the Registers of Scotland;
    - (c) in relation to Northern Ireland, means the Registrar of Titles or any other official of the Land Registry exercising functions of the Registrar of Titles.
- (9) This section shall be construed as one with the Stamp Act 1891.
- (10) This section applies to documents relating to the surrender or renunciation of a lease after the day on which this Act is passed.

## **129 Abolition of duty on instruments relating to intellectual property**

- (1) No stamp duty is chargeable on an instrument for the sale, transfer or other disposition of intellectual property.
- (2) In subsection (1) “intellectual property” means—
- (a) any patent, trade mark, registered design, copyright or design right,
  - (b) any plant breeders' rights and rights under section 7 of the Plant Varieties Act 1997,
  - (c) any licence or other right in respect of anything within paragraph (a) or (b), and
  - (d) any rights under the law of a country or territory outside the United Kingdom that correspond or are similar to those within paragraph (a), (b) or (c).
- (3) Schedule 34 to this Act (which contains provisions supplementing this section) has effect.
- (4) This section and Schedule 34 shall be construed as one with the Stamp Act 1891.
- (5) This section applies to instruments executed on or after 28th March 2000.
- (6) This section shall be deemed to have come into force on that date.

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### **130 Transfers to registered social landlords etc**

- (1) No stamp duty shall be chargeable under Part I or II, or paragraph 16 of Part III, of Schedule 13 to the Finance Act 1999 on a conveyance or transfer of an estate or interest in land, or on a lease of land,—
- (a) to a qualifying landlord controlled by its tenants;
  - (b) to a qualifying landlord by a qualifying transferor; or
  - (c) to a qualifying landlord purchasing the estate or interest, or the grant of the lease, with the assistance of a public subsidy.
- (2) For the purposes of this section the cases where a qualifying landlord is controlled by its tenants are those cases where the majority of the board members of the qualifying landlord are tenants occupying properties owned or managed by the qualifying landlord.
- (3) For the purposes of subsection (2) a “board member” means—
- (a) in relation to a qualifying landlord which is a company, a director of the company;
  - (b) in relation to a qualifying landlord which is a body corporate whose affairs are managed by its members, a member;
  - (c) in relation to a qualifying landlord which is a body of trustees, a member of that body of trustees;
  - (d) in relation to a qualifying landlord not falling within any of 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 qualifying landlord.
- (4) In subsection (3), “company” has the same meaning as in the Companies Act 1985 (see section 735(1) of that Act).
- (5) In this section “qualifying landlord” means—
- (a) in relation to England and Wales, any body registered as a social landlord in a register maintained under section 1(1) of the Housing Act 1996;
  - (b) in relation to Scotland—
    - (i) any housing association registered in the register maintained under section 3(1) of the Housing Associations Act 1985 by Scottish Homes; or
    - (ii) any 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 purpose by Scottish Homes;
  - (c) in relation to Northern Ireland, any housing association registered in the register maintained under Article 14 of the Housing (Northern Ireland) Order 1992.
- (6) In this section “qualifying transferor” means any of the following—
- (a) a qualifying landlord;
  - (b) a housing action trust established under Part III of the Housing Act 1988;
  - (c) a principal council, within the meaning of the Local Government Act 1972;
  - (d) the Common Council of the City of London;
  - (e) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - (f) Scottish Homes;
  - (g) the Department for Social Development in Northern Ireland;

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- (h) the Northern Ireland Housing Executive.
- (7) In this section “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 (application of money by distributing bodies);
  - (b) under section 18 of the Housing Act 1996 (social housing grants);
  - (c) under section 126 of the Housing Grants, Construction and Regeneration Act 1996 (financial assistance for regeneration and development);
  - (d) under section 2 of the Housing (Scotland) Act 1988 (general functions of Scottish Homes); or
  - (e) under Article 33 of the Housing (Northern Ireland) Order 1992 (housing association grants).
- (8) Where stamp duty would be chargeable on an instrument but for paragraph (c) of subsection (1), that subsection shall only have effect in relation to the instrument if the instrument is certified to the Board by the qualifying landlord concerned as being an instrument on which stamp duty is by virtue of that paragraph not chargeable.
- (9) 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, been stamped with a particular stamp denoting that it is not chargeable with any duty.
- (10) This section applies to instruments executed after the day on which this Act is passed.

### **131 Relief for certain instruments executed before this Act has effect**

- (1) This section applies to an instrument of any of the following descriptions executed in the period beginning with 22nd March 2000 and ending with the day on which this Act is passed—
- (a) an instrument transferring or vesting an estate or interest in land in such circumstances as are mentioned in section 119 (transfer of land to connected company), in a case specified in section 120 (excepted cases);
  - (b) a conveyance or transfer of an estate or interest in land, or a lease of land, to a qualifying landlord within the meaning of section 130 (transfers to registered social landlords, etc.) from a qualifying transferor within subsection (6)(c), (d), (e), (f) or (h) of that section.
- (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 that which would have applied if it had been executed after that day.
- (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 no stamp duty, or less stamp duty, would 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 the law in force at the time of execution of the instrument had been that which would have applied had it been executed after that day.

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- (4) Any such payment must be claimed before 1st April 2001.
- (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 section 10 of the Exchequer and Audit Departments Act 1866 (Commissioners to deduct repayments from gross revenues) any amount paid under this section shall be treated as a repayment.
- (7) This section shall be construed as one with the Stamp Act 1891.

### **132 The Northern Ireland Assembly Commission**

- (1) Amend section 55 of the Finance Act 1987 (Crown exemption from stamp duty) as follows.
- (2) In subsection (1) (which specifies the bodies relieved from stamp duty)—
  - (a) after “agreed to be made” insert “(a)”;
  - (b) after “Minister of the Crown or” insert “(b)”;
  - (c) after “Treasury, or” insert “(c)”.
- (3) In subsection (1), after “National Assembly for Wales,” insert “or  
(d) to the Northern Ireland Assembly Commission,”.
- (4) Subsection (3) has effect in relation to instruments executed on or after 28th March 2000.
- (5) This section shall be deemed to have come into force on 28th March 2000.

#### *Stamp duty and Stamp duty reserve tax*

### **133 Loan capital where return bears inverse relationship to results**

- (1) In section 79 of the Finance Act 1986 (loan capital), after subsection (7) insert—
  - “(7A) Subsection (4) above shall not be prevented from applying to an instrument by virtue of subsection (6)(b) above by reason only that the loan capital concerned carries a right to interest which—
    - (a) reduces in the event of the results of a business or part of a business improving, or the value of any property increasing, or
    - (b) increases in the event of the results of a business or part of a business deteriorating, or the value of any property diminishing.”.
- (2) For the purposes of stamp duty, subsection (1) above has effect where the instrument is executed on or after 21st March 2000.
- (3) For the purposes of stamp duty reserve tax, subsection (1) above has effect—
  - (a) in relation to the charge to tax under section 87 of the Finance Act 1986, where—
    - (i) the agreement to transfer is conditional and the condition is satisfied on or after 21st March 2000, or

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- (ii) the agreement is not conditional and is made on or after that date;
- (b) in relation to the charge to tax under section 93(1) of that Act, where securities are transferred, issued or appropriated on or after 21st March 2000 (whenever the arrangement was made);
- (c) in relation to the charge to tax under section 96(1) of that Act, where securities are transferred or issued on or after 21st March 2000 (whenever the arrangement was made);
- (d) in relation to the charge to tax under section 93(10) of that Act, where securities are issued or transferred on sale, under terms there mentioned, on or after 21st March 2000;
- (e) in relation to the charge to tax under section 96(8) of that Act, where securities are issued or transferred on sale, under terms there mentioned, on or after 21st March 2000.

### **134 Transfers between depositary receipt systems and clearance systems**

- (1) In Part III of the Finance Act 1986 (stamp duty), after section 72 insert—

*“Transfers between depositary receipt system and clearance system*

#### **72A Transfers between depositary receipt system and clearance system**

- (1) Where an instrument transfers relevant securities of a company incorporated in the United Kingdom between a depositary receipt system and a clearance system—
- (a) the provisions of section 67(2) to (5) or, as the case may be, section 70(2) to (5) above shall not apply, and
  - (b) the stamp duty chargeable on the instrument is £5.
- (2) A transfer between a depositary receipt system and a clearance system means a transfer—
- (a) from (or to) a company that at the time of the transfer falls within section 67(6) above, and
  - (b) to (or from) a company that at that time falls within section 70(6) above.
- (3) This section does not apply to a transfer from a clearance system (that is, from such a company as is mentioned in subsection (2)(b) above) if at the time of the transfer an election is in force under section 97A below in relation to the clearance services for the purposes of which the securities are held immediately before the transfer.”.

- (2) In Part IV of the Finance Act 1986 (stamp duty reserve tax), after section 97A insert—

#### **“97B Transfer between depositary receipt system and clearance system**

- (1) There shall be no charge to tax under section 93 or 96 above where securities are transferred between a depositary receipt system and a clearance system.
- (2) A transfer between a depositary receipt system and a clearance system means a transfer—

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- (a) from (or to) a company which at the time of the transfer falls within section 67(6) above, and
  - (b) to (or from) a company which at that time falls within section 70(6) above.
- (3) This section does not apply to a transfer from a clearance system (that is, from such a company as is mentioned in subsection (2)(b) above) if at the time of the transfer an election is in force under section 97A above in relation to the clearance services for the purposes of which the securities are held immediately before the transfer.”.
- (3) In sections 67(9), 70(9), 95(1) and 97(1) of the Finance Act 1986 (transfers between depository receipt systems or between clearance systems), the words “and is resident in the United Kingdom” and “and is so resident” shall cease to have effect.
- (4) In section 97A of that Act (clearance services: election for alternative system of charge), after subsection (12) add—
  - “(13) Nothing in section 70(9) or 97(1) above has effect to prevent a charge to stamp duty or stamp duty reserve tax arising—
    - (a) on a transfer to which subsection (5) above applies, or
    - (b) on a deemed transfer under subsection (11) above.”.
- (5) The amendments in this section have effect as follows—
  - (a) subsection (1), and subsections (3) and (4) as they apply for stamp duty purposes, apply in relation to instruments executed after the day on which this Act is passed;
  - (b) subsection (2), and subsections (3) and (4) as they apply for the purposes of stamp duty reserve tax, apply where the securities are transferred after that day.