



# Finance Act 2003

## 2003 CHAPTER 14

### PART 4

#### STAMP DUTY LAND TAX

##### *Reliefs*

#### 57 Disadvantaged areas relief

- (1) Schedule 6 provides for relief in the case of transactions relating to land in a disadvantaged area.
- (2) In that Schedule—
  - Part 1 defines “disadvantaged area”,
  - Part 2 relates to transactions where the land to which the transaction relates is wholly situated in a disadvantaged area,
  - Part 3 relates to transactions where the land to which the transaction relates is partly situated in a disadvantaged area, and
  - Part 4 contains supplementary provisions.

#### **Commencement Information**

- II** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### **[<sup>F1</sup>57A Sale and leaseback arrangements**

- (1) The leaseback element of a sale and leaseback arrangement is exempt from charge if the qualifying conditions specified below are met.
- (2) A “sale and leaseback” arrangement means an arrangement under which—
  - (a) A transfers or grants to B a major interest in land (the “sale”), and
  - (b) out of that interest B grants a lease to A (the “leaseback”).

*Status: Point in time view as at 01/04/2010.*

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(3) The qualifying conditions are—

- (a) that the sale transaction is entered into wholly or partly in consideration of the leaseback transaction being entered into,
- [<sup>F2</sup>(aa) that the sale transaction is entered into wholly or partly in consideration of the leaseback transaction being entered into,
- (b) that the only other consideration (if any) for the sale is the payment of money or the assumption, satisfaction or release of a debt (or both),]
- (c) that the sale is not a transfer of rights within the meaning of section 45 (contract and conveyance: effect of transfer of rights) or 45A (contract providing for conveyance to third party: effect of transfer of rights), and
- (d) where A and B are both bodies corporate at the effective date of the leaseback transaction, that they are not members of the same group for the purposes of group relief (see paragraph 1 of Schedule 7) at that date.
- [<sup>F3</sup>(e) where A and B are both bodies corporate at the effective date of the leaseback transaction, that they are not members of the same group for the purposes of group relief (see paragraph 1 of Schedule 7) at that date.]

[<sup>F4</sup>(4) . . . . . ]

#### Textual Amendments

- F1** S. 57A inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 16](#) (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** S. 57A(3)(aa)(b) substituted for s. 57A(3)(b) (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 6\(2\)](#)
- F3** S. 57A(3)(e) inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 6\(3\)](#)
- F4** S. 57A(4) omitted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by virtue of [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 6\(4\)](#)

#### [<sup>F5</sup>58A Relief for certain acquisitions of residential property

Schedule 6A provides for relief in the case of certain acquisitions of residential property.]

#### Textual Amendments

- F5** S. 58A substituted (with effect in accordance with Sch. 39 para. 26 of the amending Act) for ss. 58 and 59 by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 17\(1\)](#) (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)

#### [<sup>F6</sup>58B Relief for new zero-carbon homes

- (1) The Treasury may make regulations granting relief on the first acquisition of a dwelling which is a “zero-carbon home”.

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- [<sup>F7</sup>(2) For the purposes of this section—
- (a) a building, or a part of a building, is a dwelling if it is constructed for use as a single dwelling, and
  - (b) “first acquisition”, in relation to a dwelling, means its acquisition when it has not previously been occupied.]
- (3) For the purpose of subsection (2) land occupied or enjoyed with a dwelling as a garden or grounds is part of the dwelling.
- (4) The regulations shall define “zero-carbon home” by reference to specified aspects of the energy efficiency of a building; for which purpose “energy efficiency” includes—
- (a) consumption of energy,
  - (b) conservation of energy, and
  - (c) generation of energy.
- (5) The relief may take the form of—
- (a) exemption from charge, or
  - (b) a reduction in the amount of tax chargeable.
- (6) Regulations under this section shall not have effect in relation to acquisitions on or after 1st October 2012.
- (7) The Treasury may by order—
- (a) substitute a later date for the date in subsection (6);
  - (b) make transitional provision, or provide savings, in connection with the effect of subsection (6).

#### Textual Amendments

**F6** Ss. 58B, 58C inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 19(1)

**F7** S. 58B(2) substituted (retrospective to 19.7.2007) by [Finance Act 2008 \(c. 9\)](#), s. 93(2)(7)

### 58C Relief for new zero-carbon homes: supplemental

- (1) Regulations under section 58B—
- (a) shall include provision about the method of claiming relief (including documents or information to be provided), and
  - (b) in particular, shall include provision about the evidence to be adduced to show that a [<sup>F8</sup>dwelling] satisfies the definition of “zero-carbon home”.
- (2) Regulations made by virtue of subsection (1)(b) may, in particular—
- (a) refer to a scheme or process established by or for the purposes of an enactment about building;
  - (b) establish or provide for the establishment of a scheme or process of certification;
  - (c) specify, or provide for the approval of, one or more schemes or processes for certifying energy efficiency.
- [<sup>F9</sup>(d) provide for the charging of fees of a reasonable amount in respect of services provided as part of a scheme or process of certification.]

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- (3) In defining “zero-carbon home” regulations under section 58B may include requirements which may be satisfied in relation to [F<sup>10</sup>a dwelling] either—
- (a) by features of the [F<sup>11</sup>building which, or part of which, constitutes the dwelling], or
  - (b) by other installations or utilities.
- (4) Regulations under section 58B may modify the effect of section 108, or another provision of this Part about linked transactions, in relation to a set of transactions of which at least one is the first acquisition of a dwelling which is a zero-carbon home.
- (5) In determining whether section 116(7) applies, and in the application of section 116(7), a transaction shall be disregarded if or in so far as it involves the first acquisition of a dwelling which is a zero-carbon home.
- (6) Regulations under section 58B—
- (a) may provide for relief to be wholly or partly withdrawn if a dwelling ceases to be a zero-carbon home, and
  - (b) may provide for the reduction or withholding of relief where a person acquires more than one zero-carbon home within a specified period.
- (7) Regulations under section 58B may include provision for relief to be granted in respect of acquisitions occurring during a specified period before the regulations come into force.]

#### Textual Amendments

- F6** Ss. 58B, 58C inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 19\(1\)](#)
- F8** Word in s. 58C(1) substituted (retrospective to 19.7.2007) by [Finance Act 2008 \(c. 9\), s. 93\(4\)\(7\)](#)
- F9** S. 58C(2)(d) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 93\(5\)](#)
- F10** Words in s. 58C(3) substituted (retrospective to 19.7.2007) by [Finance Act 2008 \(c. 9\), s. 93\(6\)\(a\)\(7\)](#)
- F11** Words in s. 58C(3) substituted (retrospective to 19.7.2007) by [Finance Act 2008 \(c. 9\), s. 93\(6\)\(b\)\(7\)](#)

## 60 Compulsory purchase facilitating development

- (1) A compulsory purchase facilitating development is exempt from charge.
- (2) In this section “compulsory purchase facilitating development” means—
- (a) in relation to England and Wales or Scotland, the acquisition by a person of a chargeable interest in respect of which that person has made a compulsory purchase order for the purpose of facilitating development by another person;
  - (b) in relation to Northern Ireland, the acquisition by a person of a chargeable interest by means of a vesting order made for the purpose of facilitating development by a person other than the person who acquires the interest.
- (3) For the purposes of subsection (2)(a) it does not matter how the acquisition is effected (so that provision applies where the acquisition is effected by agreement).
- (4) In subsection (2)(b) a “vesting order” means an order made under any statutory provision to authorise the acquisition of land otherwise than by agreement.
- (5) In this section “development”—
- (a) in relation to England and Wales, has the same meaning as in the Town and Country Planning Act 1990 (c. 8) (see section 55 of that Act);

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- (b) in relation to Scotland, has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 26 of that Act); and
- (c) in relation to Northern Ireland, has the same meaning as in the Planning (Northern Ireland) Order 1991 (1991/1220 (N.I. 11)) (see Article 11 of that Order).

#### **Commencement Information**

**I2** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### **61 Compliance with planning obligations**

- (1) A land transaction that is entered into in order to comply with a planning obligation or a modification of a planning obligation is exempt from charge if—
  - (a) the planning obligation or modification is enforceable against the vendor,
  - (b) the purchaser is a public authority, and
  - (c) the transaction takes place within the period of five years beginning with the date on which the planning obligation was entered into or modified.
- (2) In this section—
  - (a) in relation to England and Wales—
    - “planning obligation” means either of the following—
      - (a) a planning obligation within the meaning of section 106 of the Town and Country Planning Act 1990 that is entered into in accordance with subsection (9) of that section, or
      - (b) a planning obligation within the meaning of section 299A of that Act that is entered into in accordance with subsection (2) of that section; and
    - “modification” of a planning obligation means modification as mentioned in section 106A(1) of that Act;
  - (b) in relation to Scotland, “planning obligation” means an agreement made under section 75 or section 246 of the Town and Country Planning (Scotland) Act 1997;
  - (c) in relation to Northern Ireland—
    - “planning obligation” means a planning agreement within the meaning of Article 40 of the Planning (Northern Ireland) Order 1991 that is entered into in accordance with paragraph (10) of that Article, and
    - “modification” of a planning obligation means modification as mentioned in Article 40A(1) of that Order.
- (3) The following are public authorities for the purposes of subsection (1)(b)—

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#### **Government**

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

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[<sup>F12</sup>The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Government]

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***Local government: England***

A county or district council constituted under section 2 of the Local Government Act 1972 (c. 70)

The council of a London borough

The Common Council of the City of London

The Greater London Authority

Transport for London

The Council of the Isles of Scilly

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***Local government: Wales***

A county or county borough council constituted under section 21 of the Local Government Act 1972

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***Local government: Scotland***

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

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***Local government: Northern Ireland***

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

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***Health: England and Wales***

A Strategic Health Authority [<sup>F13</sup>established under section 13 of the National Health Service Act 2006]

A Special Health Authority established under [<sup>F14</sup>section 28 of that Act or section 22 of the National Health Service (Wales) Act 2006]

A Primary Care Trust established under [<sup>F15</sup>section 18 of the National Health Service Act 2006]

A Local Health Board established under [<sup>F16</sup>section 11 of the National Health Service (Wales) Act 2006]

A National Health Service Trust established under [<sup>F17</sup>section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006]

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***Health: Scotland***

The Common Services Agency established under section 10(1) of the National Health Service (Scotland) Act 1978 (c. 29)

A Health Board established under section 2(1)(a) of that Act

A National Health Service Trust established under section 12A(1) of that Act

A Special Health Board established under section 2(1)(b) of that Act

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### **Health: Northern Ireland**

A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

A Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

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### **Other planning authorities**

Any other authority that—

- (a) is a local planning authority within the meaning of the Town and Country Planning Act 1990 (c. 8), or
- (b) is the planning authority for any of the purposes of the planning Acts within the meaning of the Town and Country Planning (Scotland) Act 1997 (c. 8).

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### **Prescribed persons**

A person prescribed for the purposes of this section by Treasury order

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#### **Textual Amendments**

- F12** Words in s. 61(3) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160, Sch. 10 para. 63 (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, s. 161(4)(5) of the amending Act.
- F13** Words in s. 61(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 233\(a\)](#) (with Sch. 3 Pt. 1)
- F14** Words in s. 61(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 233\(b\)](#) (with Sch. 3 Pt. 1)
- F15** Words in s. 61(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 233\(c\)](#) (with Sch. 3 Pt. 1)
- F16** Words in s. 61(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 233\(d\)](#) (with Sch. 3 Pt. 1)
- F17** Words in s. 61(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 233\(e\)](#) (with Sch. 3 Pt. 1)

#### **Commencement Information**

- I3** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

## **62 Group relief and reconstruction or acquisition relief**

- (1) Schedule 7 provides for relief from stamp duty land tax.
- (2) In that Schedule—
  - Part 1 makes provision for group relief,
  - Part 2 makes provision for reconstruction and acquisition reliefs.
- (3) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

*Status: Point in time view as at 01/04/2010.*

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### Commencement Information

**I4** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 63 Demutualisation of insurance company

- (1) A land transaction is exempt from charge if it is entered into for the purposes of or in connection with a qualifying transfer of the whole or part of the business of a mutual insurance company (“the mutual”) to a company that has share capital (“the acquiring company”).
- (2) A transfer is a qualifying transfer if—
  - (a) it is a transfer of business consisting of the effecting or carrying out of contracts of insurance and takes place under an insurance business transfer scheme, or
  - (b) it is a transfer of business of a general insurance company carried on through a permanent establishment in the United Kingdom and takes place in accordance with authorisation granted outside the United Kingdom for the purposes of—
    - (i) Article 14 of the life assurance Directive, or
    - (ii) Article 12 of the 3rd non-life insurance Directive,
 and, in either case, the requirements of subsections (3) and (4) are met in relation to the shares of a company (“the issuing company”) which is either the acquiring company or a company of which the acquiring company is a wholly-owned subsidiary.
- (3) Shares in the issuing company must be offered, under the scheme, to at least 90% of the persons who are members of the mutual immediately before the transfer.
- (4) Under the scheme all of the shares in the issuing company that will be in issue immediately after the transfer has been made, other than shares that are to be or have been issued pursuant to an offer to the public, must be offered to the persons who (at the time of the offer) are—
  - (a) members of the mutual,
  - (b) persons who are entitled to become members of the mutual, or
  - (c) employees, former employees or pensioners of—
    - (i) the mutual, or
    - (ii) a wholly-owned subsidiary of the mutual.
- (5) The Treasury may by regulations—
  - (a) amend subsection (3) by substituting a lower percentage for the percentage mentioned there;
  - (b) provide that any or all of the references in subsections (3) and (4) to members shall be construed as references to members of a class specified in the regulations.

Regulations under paragraph (b) may make different provision for different cases.
- (6) For the purposes of this section a company is the wholly-owned subsidiary of another company (“the parent”) if the company has no members except the parent and the parent’s wholly-owned subsidiaries or persons acting on behalf of the parent or the parent’s wholly-owned subsidiaries.



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(7) In this section—

“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

“employee”, in relation to a mutual insurance company or its wholly-owned subsidiary, includes any officer or director of the company or subsidiary and any other person taking part in the management of the affairs of the company or subsidiary;

“general insurance company” means a company that has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8), or paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule), to effect or carry out contracts of insurance;

“insurance company” means a company that carries on the business of effecting or carrying out contracts of insurance;

“insurance business transfer scheme” has the same meaning as in Part 7 of the Financial Services and Markets Act 2000;

“the life assurance Directive” means the Council Directive of 5th November 2002 concerning life assurance (No.2002/83/EC);

“mutual insurance company” means an insurance company carrying on business without having any share capital;

“the 3rd non-life insurance Directive” means the Council Directive of 18th June 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life insurance and amending Directives 73/239/EEC and 88/357/EEC (No. 92/49/EEC);

“pensioner”, in relation to a mutual insurance company or its wholly-owned subsidiary, means a person entitled (whether presently or prospectively) to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company or subsidiary.

**Commencement Information**

**I5** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**64 Demutualisation of building society**

A land transaction effected by section 97(6) or (7) of the Building Societies Act 1986 (c. 53) (transfer of building society’s business to a commercial company) is exempt from charge.

**Commencement Information**

**I6** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

<sup>F18</sup>**64A Initial transfer of assets to trustees of unit trust scheme**

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### Textual Amendments

- F18** S. 64A repealed (with effect in accordance with s. 166(4)-(8) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 166(2), [Sch. 26 Pt. 7\(3\)](#)

## 65 Incorporation of limited liability partnership

- (1) A transaction by which a chargeable interest is transferred by a person (“the transferor”) to a limited liability partnership in connection with its incorporation is exempt from charge if the following three conditions are met.
- (2) The first condition is that the effective date of the transaction is not more than one year after the date of incorporation of the limited liability partnership.
- (3) The second condition is that at the relevant time the transferor—
  - (a) is a partner in a partnership comprised of all the persons who are or are to be members of the limited liability partnership (and no-one else), or
  - (b) holds the interest transferred as nominee or bare trustee for one or more of the partners in such a partnership.
- (4) The third condition is that—
  - (a) the proportions of the interest transferred to which the persons mentioned in subsection (3)(a) are entitled immediately after the transfer are the same as those to which they were entitled at the relevant time, or
  - (b) none of the differences in those proportions has arisen as part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to any duty or tax.
- (5) In this section “the relevant time” means—
  - (a) where the transferor acquired the interest after the incorporation of the limited liability partnership, immediately after he acquired it, and
  - (b) in any other case, immediately before its incorporation.
- (6) In this section “limited liability partnership” means a limited liability partnership formed under the Limited Liability Partnerships Act 2000 (c. 12) or the Limited Liability Partnerships Act (Northern Ireland) 2002 (c. 12 (N. I.)).

### Commencement Information

- I7** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 66 Transfers involving public bodies

- (1) A land transaction entered into on, or in consequence of, or in connection with, a reorganisation effected by or under a statutory provision is exempt from charge if the purchaser and vendor are both public bodies.
- (2) The Treasury may by order provide that a land transaction that is not entered into as mentioned in subsection (1) is exempt from charge if—
  - (a) the transaction is effected by or under a prescribed statutory provision, and
  - (b) either the purchaser or the vendor is a public body.

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In this subsection “prescribed” means prescribed in an order made under this subsection.

- (3) A “reorganisation” means changes involving—
- (a) the establishment, reform or abolition of one or more public bodies,
  - (b) the creation, alteration or abolition of functions to be discharged or discharged by one or more public bodies, or
  - (c) the transfer of functions from one public body to another.
- (4) The following are public bodies for the purposes of this section—

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***Government, Parliament etc***

A Minister of the Crown

The Scottish Ministers

A Northern Ireland department

[<sup>F19</sup>The Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Government]

The Corporate Officer of the House of Lords

The Corporate Officer of the House of Commons

The Scottish Parliamentary Corporate Body

The Northern Ireland Assembly Commission

[<sup>F20</sup>The National Assembly for Wales Commission]

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***Local government: England***

A county or district council constituted under section 2 of the Local Government Act 1972 (c. 70)

The council of a London borough

The Greater London Authority

The Common Council of the City of London

The Council of the Isles of Scilly

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***Local government: Wales***

A county or county borough council constituted under section 21 of the Local Government Act 1972

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***Local government: Scotland***

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)

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***Local government: Northern Ireland***

A district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

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***Health: England and Wales***

A Strategic Health Authority [<sup>F21</sup>established under section 13 of the National Health Service Act 2006]

A Special Health Authority established under [<sup>F22</sup>section 28 of that Act or section 22 of the National Health Service (Wales) Act 2006]

A Primary Care Trust established under [<sup>F23</sup>section 18 of the National Health Service Act 2006]

A Local Health Board established under [<sup>F24</sup>section 11 of the National Health Service (Wales) Act 2006]

A National Health Service Trust established under [<sup>F25</sup>section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006]

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***Health: Scotland***

The Common Services Agency established under section 10(1) of the National Health Service (Scotland) Act 1978 (c. 29)

A Health Board established under section 2(1)(a) of that Act

A National Health Service Trust established under section 12A(1) of that Act

A Special Health Board established under section 2(1)(b) of that Act

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***Health: Northern Ireland***

A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

A Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1))

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***Other planning authorities***

Any other authority that—

- (a) is a local planning authority within the meaning of the Town and Country Planning Act 1990 (c. 8), or
  - (b) is the planning authority for any of the purposes of the planning Acts within the meaning of the Town and Country Planning (Scotland) Act 1997 (c. 8)
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***Statutory bodies***

A body (other than a company) that is established by or under a statutory provision for the purpose of carrying out functions conferred on it by or under a statutory provision

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***Prescribed persons***

A person prescribed for the purposes of this section by Treasury order

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(5) In this section references to a public body include—

- (a) a company in which all the shares are owned by such a body, and
- (b) a wholly-owned subsidiary of such a company.

*Status: Point in time view as at 01/04/2010.*

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[<sup>F26</sup>(6) In this section “company” means a company as defined by section [<sup>F27</sup>1] of the Companies Act [<sup>F28</sup>2006]<sup>F28</sup>....]

#### Textual Amendments

- F19** Words in s. 66(4) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160, Sch. 10 para. 64(a) (with Sch. 11 para. 22), the amending provision coming into force immediately after “the 2007 election” (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, s. 161(4)(5) of the amending Act.
- F20** Words in s. 66(4) inserted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160, Sch. 10 para. 64(b) (with Sch. 11 para. 22), the amending provision coming into force immediately after “the 2007 election” (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, s. 161(4)(5) of the amending Act.
- F21** Words in s. 66(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 234\(a\)](#) (with Sch. 3 Pt. 1)
- F22** Words in s. 66(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 234\(b\)](#) (with Sch. 3 Pt. 1)
- F23** Words in s. 66(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 234\(c\)](#) (with Sch. 3 Pt. 1)
- F24** Words in s. 66(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 234\(d\)](#) (with Sch. 3 Pt. 1)
- F25** Words in s. 66(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 234\(e\)](#) (with Sch. 3 Pt. 1)
- F26** S. 66(6) inserted (with effect in accordance with Sch. 10 para. 22(1)(5) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 10 para. 18](#)
- F27** Word in s. 66(6) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), [3\(5\)\(a\)](#)
- F28** Words in s. 66(6) omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), [3\(5\)\(a\)](#)

#### Commencement Information

- I8** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

## 67 Transfer in consequence of reorganisation of parliamentary constituencies

(1) Where—

- (a) an Order in Council is made under the Parliamentary Constituencies Act 1986 (c. 56) (orders specifying new parliamentary constituencies), and
- (b) an existing local constituency association transfers a chargeable interest to—
  - (i) a new association that is a successor to the existing association, or
  - (ii) a related body that as soon as practicable transfers the interest or right to a new association that is a successor to the existing association,the transfer, or where paragraph (b)(ii) applies each of the transfers, is exempt from charge.

(2) In relation to any such order as is mentioned in subsection (1)(a)—

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- (a) “the date of the change” means the date on which the order comes into operation;
  - (b) “former parliamentary constituency” means an area that, for the purposes of parliamentary elections, was a constituency immediately before that date but is no longer such a constituency after that date;
  - (c) “new parliamentary constituency” means an area that, for the purposes of parliamentary elections, is such a constituency after that date but was not such a constituency immediately before that date.
- (3) In relation to the date of the change—
- (a) “existing local constituency association” means a local constituency association whose area was the same, or substantially the same, as the area of a former parliamentary constituency or two or more such constituencies, and
  - (b) “new association” means a local constituency association whose area is the same, or substantially the same, as that of a new parliamentary constituency or two or more such constituencies.
- (4) In this section—
- (a) “local constituency association” means an unincorporated association (whether described as an association, a branch or otherwise) whose primary purpose is to further the aims of a political party in an area that at any time is or was the same or substantially the same as the area of a parliamentary constituency or two or more parliamentary constituencies, and
  - (b) “related body”, in relation to such an association, means a body (whether corporate or unincorporated) that is an organ of the political party concerned.
- (5) For the purposes of this section a new association is a successor to an existing association if any part of the existing association’s area is comprised in the new association’s area.

**Commencement Information**

**I9** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**68 Charities relief**

- (1) Schedule 8 provides for relief from stamp duty land tax for acquisitions by charities.
- (2) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

**Commencement Information**

**I10** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

**69 Acquisition by bodies established for national purposes**

A land transaction is exempt from charge if the purchaser is any of the following—

- (a) the Historic Buildings and Monuments Commission for England;
- (b) the National Endowment for Science, Technology and the Arts;

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- (c) the Trustees of the British Museum;
- (d) the Trustees of the National Heritage Memorial Fund;
- (e) the Trustees of the Natural History Museum.

#### Commencement Information

**II1** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 70 Right to buy transactions, shared ownership leases etc

Schedule 9 makes provision for relief in the case of right to buy transactions, shared ownership leases and certain related transactions.

#### Commencement Information

**II2** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### 71 Certain acquisitions by registered social landlord

[<sup>F29</sup>(A1) A land transaction under which the purchaser is a profit-making registered provider of social housing is exempt from charge if the transaction is funded with the assistance of a public subsidy.]

- (1) A land transaction under which the purchaser is a [<sup>F30</sup>relevant housing provider] is exempt from charge if—
- (a) the [<sup>F30</sup>relevant housing provider] is controlled by its tenants,
  - (b) the vendor is a qualifying body, or
  - (c) the transaction is funded with the assistance of a public subsidy.

[<sup>F31</sup>(1A) In this section “relevant housing provider” means—

- (a) a non-profit registered provider of social housing, or
- (b) a registered social landlord.]

- (2) The reference in subsection (1)(a) to a [<sup>F32</sup>relevant housing provider] “controlled by its tenants” is to a [<sup>F32</sup>relevant housing provider] the majority of whose board members are tenants occupying properties owned or managed by it.

“Board member”, in relation to a [<sup>F32</sup>relevant housing provider], means—

- (a) if it is a company, a director of the company,
- (b) if it is a body corporate whose affairs are managed by its members, a member,
- (c) if it is body of trustees, a trustee,
- (d) if it is not within 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 [<sup>F32</sup>relevant housing provider].

- (3) In subsection (1)(b) “qualifying body” means—

- (a) a [<sup>F33</sup>relevant housing provider],
- (b) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50),

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- (c) a principal council within the meaning of the Local Government Act 1972 (c. 70),
  - (d) the Common Council of the City of London,
  - (e) the Scottish Ministers,
  - (f) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
  - (g) Scottish Homes,
  - (h) the Department for Social Development in Northern Ireland, or
  - (i) the Northern Ireland Housing Executive.
- (4) In [<sup>F34</sup>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 (c. 39) (application of money by distributing bodies),
  - (b) under section 18 of the Housing Act 1996 (c. 52) (social housing grants),
  - (c) under section 126 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53) (financial assistance for regeneration and development),
  - [<sup>F35</sup>(ca) under section 19 of the Housing and Regeneration Act 2008 (financial assistance by the Homes and Communities Agency),]
  - (d) under section 2 of the Housing (Scotland) Act 1988 (c. 43) (general functions of the Scottish Ministers), or
  - (e) under Article 33 [<sup>F36</sup>or 33A] of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)).

#### Textual Amendments

- F29** S. 71(A1) inserted (with effect in accordance with s. 81(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **s. 81(3)**
- F30** Words in s. 71(1) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 9 para. 30(2)**; S.I. 2010/862, art. 2 (with Sch.)
- F31** S. 71(1A) inserted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 9 para. 30(3)**; S.I. 2010/862, art. 2 (with Sch.)
- F32** Words in s. 71(2) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 9 para. 30(2)**; S.I. 2010/862, art. 2 (with Sch.)
- F33** Words in s. 71(3) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 9 para. 30(2)**; S.I. 2010/862, art. 2 (with Sch.)
- F34** Words in s. 71(4) substituted (with effect in accordance with s. 81(8) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **s. 81(4)**
- F35** S. 71(4)(ca) inserted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 79**; S.I. 2008/3068, art. 2(1)(w)(3) (with arts. 6-13)
- F36** Words in s. 71(4)(e) inserted (N.I.) (1.4.2007) by [The Housing \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/3337\)](#), art. 1(3), **Sch. para. 8**; S.R. 2007/37, art. 2

#### Commencement Information

- I13** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, [Sch. 19 para. 1\(1\)](#)

#### [<sup>F37</sup>71A **Alternative property finance: land sold to financial institution and leased to [<sup>F38</sup>person]**

- (1) This section applies where arrangements are entered into between [<sup>F39</sup>a person] and a financial institution under which—



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- (a) the institution purchases a major interest in land or an undivided share of a major interest in land (“the first transaction”),
    - (b) where the interest purchased is an undivided share, the major interest is held on trust for the institution and the [F38 person] as beneficial tenants in common,
    - (c) the institution (or the person holding the land on trust as mentioned in paragraph (b)) grants to the [F38 person] out of the major interest a lease (if the major interest is freehold) or a sub-lease (if the major interest is leasehold) (“the second transaction”), and
    - (d) the institution and the [F38 person] enter into an agreement under which the [F38 person] has a right to require the institution or its successor in title to transfer to the [F38 person] (in one transaction or a series of transactions) the whole interest purchased by the institution under the first transaction.
  - (2) The first transaction is exempt from charge if the vendor is—
    - (a) the [F38 person], or
    - (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the [F38 person].
  - (3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).
  - (4) Any transfer to the [F38 person] that results from the exercise of the right mentioned in subsection (1)(d) (“a further transaction”) is exempt from charge if—
    - (a) the provisions of this Part relating to the first and second transactions are complied with, and
    - (b) at all times between the second transaction and the further transaction—
      - (i) the interest purchased under the first transaction is held by a financial institution so far as not transferred by a previous further transaction, and
      - (ii) the lease or sub-lease granted under the second transaction is held by the [F38 person].
  - (5) The agreement mentioned in subsection (1)(d) is not to be treated—
    - (a) as substantially performed unless and until the whole interest purchased by the institution under the first transaction has been transferred (and accordingly section 44(5) does not apply), or
    - (b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).
  - [F40](6) The requirements of subsection (1), or (4)(b)(ii), are not met if—
    - (a) the [F38 person] enters into the arrangement, or holds the lease or sub-lease, as trustee and any beneficiary of the trust is not [F39 a person], or
    - (b) the [F38 person] enters into the arrangements, or holds the lease or sub-lease, as partner and any of the other partners is not [F39 a person].]
  - (7) A further transaction that is exempt from charge by virtue of subsection (4) is not a notifiable transaction unless the transaction involves the transfer to the [F38 person] of the whole interest purchased by the institution under the first transaction, so far as not transferred by a previous further transaction.
  - [F41](8) In this section “financial institution” has the meaning given by [F42 section 564B of the Income Tax Act 2007] (alternative finance arrangements).]

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- (9) References in this section to [F39 a person] shall be read, in relation to times after the death of the [F38 person] concerned, as references to his personal representatives.
- (10) This section does not apply in relation to land in Scotland.]

#### Textual Amendments

- F37** S. 71A inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 2](#)
- F38** Word in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F39** Words in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F40** S. 71A(6) ceased to have effect (with effect in accordance with s. 168(5) of the amending Act) by virtue of [Finance Act 2006 \(c. 25\), s. 168\(2\)](#)
- F41** S. 71A(8) substituted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 75\(3\)](#)
- F42** Words in s. 71A(8) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 206](#) (with Sch. 9 paras. 1-9, 22)

## 72 **Alternative property finance [F43 in Scotland]: land sold to financial institution and leased to [F38 person]**

- (1) This section applies where arrangements are entered into between [F39 a person] and a financial institution under which the institution—
- purchases a major interest in land (“the first transaction”),
  - grants to the [F38 person] out of that interest a lease (if the interest acquired is [F44 the interest of the owner]) or a sub-lease (if the interest acquired is [F45 the tenant's right over or interest in a property subject to a lease]) (“the second transaction”), and
  - enters into an agreement under which the [F38 person] has a right to require the institution <sup>F46</sup>... to transfer the major interest purchased by the institution under the first transaction.
- (2) The first transaction is exempt from charge if the vendor is—
- the [F38 person], or
  - another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the [F38 person].
- (3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).
- (4) A transfer to the [F38 person] that results from the exercise of the right mentioned in subsection (1)(c) (“the third transaction”) is exempt from charge if—
- the provisions of this Part relating to the first and second transactions are complied with, and
  - at all times between the second and third transactions—
    - the interest purchased under the first transaction is held by a financial institution, and

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- (ii) the lease or sub-lease granted under the second transaction is held by the [<sup>F38</sup>person].
- (5) The agreement mentioned in subsection (1)(c) is not to be treated—
  - (a) as substantially performed unless and until the third transaction is entered into (and accordingly section 44(5) does not apply), or
  - (b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).
- [<sup>F47</sup>(6) The requirements of subsection (1), or (4)(b)(ii), are not met if—
  - (a) the [<sup>F38</sup>person] enters into the arrangement, or holds the lease or sub-lease, as trustee and any beneficiary of the trust is not [<sup>F39</sup>a person], or
  - (b) the [<sup>F38</sup>person] enters into the arrangements, or holds the lease or sub-lease, as partner and any of the other partners is not [<sup>F39</sup>a person].]
- [<sup>F48</sup>(7) In this section “financial institution” has the meaning given by [<sup>F49</sup>section 564B of the Income Tax Act 2007] (alternative finance arrangements).]
- <sup>F50</sup>(8) .....
- (9) References in this section to [<sup>F39</sup>a person] shall be read, in relation to times after the death of the [<sup>F38</sup>person] concerned, as references to his personal representatives.
- [<sup>F51</sup>(10) This section applies only in relation to land in Scotland.]

#### Textual Amendments

- F38** Word in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F39** Words in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F43** Words in s. 72 heading inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 3\(6\)](#)
- F44** Words in s. 72(1)(b) substituted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 3\(2\)\(a\)\(i\)](#)
- F45** Words in s. 72(1)(b) substituted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 3\(2\)\(a\)\(ii\)](#)
- F46** Words in s. 72(1)(c) repealed (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 3\(2\)\(b\), Sch. 11 Pt. 3\(1\)](#)
- F47** S. 72(6) ceased to have effect (with effect in accordance with s. 168(5) of the amending Act) by virtue of [Finance Act 2006 \(c. 25\), s. 168\(2\)](#)
- F48** S. 72(7) substituted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 75\(3\)](#)
- F49** Words in s. 72(7) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 207](#) (with Sch. 9 paras. 1-9, 22)
- F50** S. 72(8) repealed (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 3\(4\), Sch. 11 Pt. 3\(1\)](#)
- F51** S. 72(10) inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 3\(5\)](#)

#### Commencement Information

- I14** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

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**[<sup>F52</sup>72A Alternative property finance in Scotland: land sold to financial institution and [<sup>F38</sup>person] in common**

- (1) This section applies where arrangements are entered into between [<sup>F39</sup>a person] and a financial institution under which—
  - (a) the institution and the [<sup>F38</sup>person] purchase a major interest in land as owners in common (“the first transaction”),
  - (b) the institution and the [<sup>F38</sup>person] enter into an agreement under which the [<sup>F38</sup>person] has a right to occupy the land exclusively (“the second transaction”), and
  - (c) the institution and the [<sup>F38</sup>person] enter into an agreement under which the [<sup>F38</sup>person] has a right to require the institution to transfer to the [<sup>F38</sup>person] (in one transaction or a series of transactions) the whole interest purchased under the first transaction.
- (2) The first transaction is exempt from charge if the vendor is—
  - (a) the [<sup>F38</sup>person], or
  - (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the [<sup>F38</sup>person].
- (3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).
- (4) Any transfer to the [<sup>F38</sup>person] that results from the exercise of the right mentioned in subsection (1)(c) (“a further transaction”) is exempt from charge if—
  - (a) the provisions of this Part relating to the first transaction are complied with, and
  - (b) at all times between the first and the further transaction—
    - (i) the interest purchased under the first transaction is held by a financial institution and the [<sup>F38</sup>person] as owners in common, and
    - (ii) the land is occupied by the [<sup>F38</sup>person] under the agreement mentioned in subsection (1)(b).
- (5) The agreement mentioned in subsection (1)(c) is not to be treated—
  - (a) as substantially performed unless and until the whole interest purchased by the institution under the first transaction has been transferred (and accordingly section 44(5) does not apply), or
  - (b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).
- <sup>F53</sup>(6) The requirements of subsection (1), or (4)(b)(ii), are not met if the [<sup>F38</sup>person] enters into the arrangements, or occupies the land, as partner and any of the other partners is not [<sup>F39</sup>a person].]
- (7) A further transaction that is exempt from charge by virtue of subsection (4) is not a notifiable transaction unless the transaction involves the transfer to the [<sup>F38</sup>person] of the whole interest purchased by the institution under the first transaction, so far as not transferred by a previous further transaction.
- <sup>F54</sup>(8) In this section “financial institution” has the meaning given by [<sup>F55</sup>section 564B of the Income Tax Act 2007] (alternative finance arrangements).]

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- (9) References in this section to [F39 a person] shall be read, in relation to times after the death of the [F38 person] concerned, as references to his personal representatives.
- (10) This section applies only in relation to land in Scotland.]

#### Textual Amendments

- F38** Word in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F39** Words in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F52** S. 72A inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 4](#)
- F53** S. 72A(6) ceased to have effect (with effect in accordance with s. 168(5) of the amending Act) by virtue of [Finance Act 2006 \(c. 25\), s. 168\(2\)](#)
- F54** S. 72A(8) substituted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 75\(3\)](#)
- F55** Words in s. 72A(8) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 208](#) (with Sch. 9 paras. 1-9, 22)

### 73 **Alternative property finance: land sold to financial institution and re-sold to [F38 person]**

- (1) This section applies where arrangements are entered into between [F39 a person] and a financial institution under which—
- (a) the institution—
    - (i) purchases a major interest in land (“the first transaction”), and
    - (ii) sells that interest to the [F38 person] (“the second transaction”), and
  - (b) the [F38 person] grants the institution a legal mortgage over that interest.
- (2) The first transaction is exempt from charge if the vendor is—
- (a) the [F38 person] concerned, or
  - (b) another financial institution by whom the interest was acquired under other arrangements of the kind mentioned in [F56 section 71A(1), 72(1) or 72A(1)] entered into between it and the [F38 person].
- (3) The second transaction is exempt from charge if the financial institution complies with the provisions of this Part relating to the first transaction (including the payment of any tax chargeable [F57 on a chargeable consideration that is not less than the market value of the interest and, in the case of the grant of a lease at a rent, the rent.]).
- [F58(4) This section does not apply if—
- (a) the [F38 person] enters into the arrangements as trustee and any beneficiary of the trust is not [F39 a person], or
  - (b) the [F38 person] enters into the arrangements as partner and any of the other partners is not [F39 a person].]
- (5) In this section—

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- [<sup>F59</sup>(a) In this section “financial institution” has the meaning given by [<sup>F60</sup>section 564B of the Income Tax Act 2007] (alternative finance arrangements).]
- (b) “legal mortgage”—
- (i) in relation to land in England or Wales, means a legal mortgage as defined in section 205(1)(xvi) of the Law of Property Act 1925 (c. 20);
  - (ii) in relation to land in Scotland, means a standard security;
  - (iii) in relation to land in Northern Ireland, means a mortgage by conveyance of a legal estate or by demise or sub-demise or a charge by way of legal mortgage.
- (6) References in this section to [<sup>F39</sup>a person] shall be read, in relation to times after the death of the [<sup>F38</sup>person] concerned, as references to his personal representatives.

#### Textual Amendments

- F38** Word in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F39** Words in ss. 71A-73 substituted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(1\)](#)
- F56** Words in s. 73(2)(b) substituted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 8 para. 5\(2\)](#)
- F57** Words in s. 73(3) inserted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(3\)](#)
- F58** S. 73(4) ceased to have effect (with effect in accordance with s. 168(5) of the amending Act) by virtue of [Finance Act 2006 \(c. 25\), s. 168\(2\)](#)
- F59** S. 73(5)(a) substituted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 75\(3\)](#)
- F60** Words in s. 73(5)(a) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 209](#) (with [Sch. 9 paras. 1-9, 22](#))

#### Commencement Information

- I15** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

#### [<sup>F61</sup>73A [<sup>F62</sup>Sections 71A to 73: relationship with Schedule 7]

Sections 71A to 73 do not apply to arrangements in which the first transaction is exempt from charge by virtue of Schedule 7.]

#### Textual Amendments

- F61** S. 73A inserted (with effect in accordance with s. 168(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 168\(4\)](#)
- F62** S. 73A heading substituted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 155\(2\)](#)

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### [<sup>F63</sup>73AB Sections 71A to 72A: arrangements to transfer control of financial institution

- (1) Section 71A, 72 or 72A does not apply to alternative finance arrangements if those arrangements, or any connected arrangements, include arrangements for a person to acquire control of the relevant financial institution.
- (2) That includes arrangements for a person to acquire control of the relevant financial institution only if one or more conditions are met (such as the happening of an event or doing of an act).
- (3) In this section—
  - “alternative finance arrangements” means the arrangements referred to in section 71A(1), 72(1) or 72A(1);
  - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
  - “connected arrangements” means any arrangements entered into in connection with the making of the alternative finance arrangements (including arrangements involving one or more persons who are not parties to the alternative finance arrangements);
  - “relevant financial institution” means the financial institution which enters into the alternative finance arrangements.
- (4) [<sup>F64</sup>Section 1124 of the Corporation Tax Act 2010] applies for the purposes of determining who has control of the relevant financial institution.]

#### Textual Amendments

- F63** S. 73AB inserted (with effect in accordance with s. 155(4) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 155\(3\)](#)
- F64** Words in s. 73AB(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 406](#) (with [Sch. 2](#))

### [<sup>F65</sup>73B Exempt interests

- (1) An interest held by a financial institution as a result of the first transaction within the meaning of section 71A(1)(a), 72(1)(a) or 72A(1)(a) is an exempt interest for the purposes of stamp duty land tax.
- (2) That interest ceases to be an exempt interest if—
  - (a) the lease or agreement mentioned in section 71A(1)(c), 72(1)(b) or 72A(1)(b) ceases to have effect, or
  - (b) the right under section 71A(1)(d), 72(1)(c) or 72A(1)(c) ceases to have effect or becomes subject to a restriction.
- (3) Subsection (1) does not apply if the first transaction is exempt from charge by virtue of Schedule 7.
- (4) Subsection (1) does not make an interest exempt in respect of—
  - (a) the first transaction itself, or
  - (b) a further transaction or third transaction within the meaning of section 71A(4), 72(4) or 72A(4).]

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#### Textual Amendments

- F65** S. 73B inserted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 75\(1\)](#)

### [<sup>F66</sup>73C Alternative finance investment bonds

Schedule 61 to the Finance Act 2009 makes provision for relief from charge in the case of arrangements [<sup>F67</sup>to which section 564G of the Income Tax Act 2007 or section 151N of the Taxation of Chargeable Gains Act 1992 (investment bond arrangements) applies].]

#### Textual Amendments

- F66** S. 73C inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 61 para. 25](#)
- F67** Words in s. 73C substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 210](#) (with [Sch. 9 paras. 1-9, 22](#))

### 74 [<sup>F68</sup>Exercise of collective rights by tenants of flats]

[<sup>F69</sup>(1) This section applies where a chargeable transaction is entered into by a person or persons nominated or appointed by qualifying tenants of flats contained in premises in exercise of—

- (a) a right under Part 1 of the Landlord and Tenant Act 1987 (right of first refusal), or
- (b) a right under Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (right to collective enfranchisement).]

(2) <sup>F70</sup>... the rate of tax is determined by reference to the fraction of the relevant consideration produced by dividing the total amount of that consideration by the number of [<sup>F71</sup>qualifying flats contained in the premises].

(3) The tax chargeable is then determined by applying that rate to the chargeable consideration for the transaction.

[<sup>F72</sup>(4) In this section—

“flat” and “qualifying tenant” have the same meaning as in the Chapter or Part of the Act conferring the right being exercised;

“qualifying flat” means a flat that is held by a qualifying tenant who is participating in the exercise of the right.]

(5) References in this section to the relevant consideration have the same meaning as in section 55.

#### Textual Amendments

- F68** S. 74 heading substituted (with effect in accordance with s. 80(7) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 80\(5\)](#)
- F69** S. 74(1) substituted (with effect in accordance with s. 80(7) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 80\(2\)](#)



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- F70** Words in s. 74(2) omitted (with effect in accordance with s. 80(7) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), s. 80\(3\)\(a\)](#)
- F71** Words in s. 74(2) substituted (with effect in accordance with s. 80(7) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 80\(3\)\(b\)](#)
- F72** S. 74(4) substituted (with effect in accordance with s. 80(7) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 80\(4\)](#)

**Modifications etc. (not altering text)**

- C1** S. 55(2) modified (temp.) (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 10\(1\)](#)

**Commencement Information**

- I16** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

## 75 Crofting community right to buy

- (1) This section applies where—
- a chargeable transaction is entered into in pursuance of the crofting community right to buy, and
  - under that transaction two or more crofts are being bought.
- (2) In that case, the rate of tax is determined by reference to the fraction of the relevant consideration produced by dividing the total amount of that consideration by the number of crofts being bought.
- (3) The tax chargeable is then determined by applying that rate to the amount of the chargeable consideration for the transaction in question.
- (4) In this section “crofting community right to buy” means the right exercisable by a crofting community body under Part 3 of the Land Reform (Scotland) Act 2003 (asp 2).
- (5) References in this section to the relevant consideration have the same meaning as in section 55.

**Commencement Information**

- I17** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

### [<sup>F73</sup>75A Anti-avoidance

- (1) This section applies where—
- one person (V) disposes of a chargeable interest and another person (P) acquires either it or a chargeable interest deriving from it,
  - a number of transactions (including the disposal and acquisition) are involved in connection with the disposal and acquisition (“the scheme transactions”), and
  - the sum of the amounts of stamp duty land tax payable in respect of the scheme transactions is less than the amount that would be payable on a notional land transaction effecting the acquisition of V's chargeable interest by P on its disposal by V.
- (2) In subsection (1) “transaction” includes, in particular—

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- (a) a non-land transaction,
  - (b) an agreement, offer or undertaking not to take specified action,
  - (c) any kind of arrangement whether or not it could otherwise be described as a transaction, and
  - (d) a transaction which takes place after the acquisition by P of the chargeable interest.
- (3) The scheme transactions may include, for example—
- (a) the acquisition by P of a lease deriving from a freehold owned or formerly owned by V;
  - (b) a sub-sale to a third person;
  - (c) the grant of a lease to a third person subject to a right to terminate;
  - (d) the exercise of a right to terminate a lease or to take some other action;
  - (e) an agreement not to exercise a right to terminate a lease or to take some other action;
  - (f) the variation of a right to terminate a lease or to take some other action.
- (4) Where this section applies—
- (a) any of the scheme transactions which is a land transaction shall be disregarded for the purposes of this Part, but
  - (b) there shall be a notional land transaction for the purposes of this Part effecting the acquisition of V's chargeable interest by P on its disposal by V.
- (5) The chargeable consideration on the notional transaction mentioned in subsections (1)(c) and (4)(b) is the largest amount (or aggregate amount)—
- (a) given by or on behalf of any one person by way of consideration for the scheme transactions, or
  - (b) received by or on behalf of V (or a person connected with V within the meaning of [F74]section 1122 of the Corporation Tax Act 2010]) by way of consideration for the scheme transactions.
- (6) The effective date of the notional transaction is—
- (a) the last date of completion for the scheme transactions, or
  - (b) if earlier, the last date on which a contract in respect of the scheme transactions is substantially performed.
- (7) This section does not apply where subsection (1)(c) is satisfied only by reason of—
- (a) sections 71A to 73, or
  - (b) a provision of Schedule 9.

#### Textual Amendments

**F73** Ss. 75A-75C inserted (with effect in accordance with s. 71(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 71\(1\)](#) (with [s. 71\(3\)](#))

**F74** Words in s. 75A(5)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [s. 1184\(1\)](#), [Sch. 1 para. 407](#) (with [Sch. 2](#))

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## **75B Anti-avoidance: incidental transactions**

- (1) In calculating the chargeable consideration on the notional transaction for the purposes of section 75A(5), consideration for a transaction shall be ignored if or in so far as the transaction is merely incidental to the transfer of the chargeable interest from V to P.
- (2) A transaction is not incidental to the transfer of the chargeable interest from V to P—
  - (a) if or in so far as it forms part of a process, or series of transactions, by which the transfer is effected,
  - (b) if the transfer of the chargeable interest is conditional on the completion of the transaction, or
  - (c) if it is of a kind specified in section 75A(3).
- (3) A transaction may, in particular, be incidental if or in so far as it is undertaken only for a purpose relating to—
  - (a) the construction of a building on property to which the chargeable interest relates,
  - (b) the sale or supply of anything other than land, or
  - (c) a loan to P secured by a mortgage, or any other provision of finance to enable P, or another person, to pay for part of a process, or series of transactions, by which the chargeable interest transfers from V to P.
- (4) In subsection (3)—
  - (a) paragraph (a) is subject to subsection (2)(a) to (c),
  - (b) paragraph (b) is subject to subsection (2)(a) and (c), and
  - (c) paragraph (c) is subject to subsection (2)(a) to (c).
- (5) The exclusion required by subsection (1) shall be effected by way of just and reasonable apportionment if necessary.
- (6) In this section a reference to the transfer of a chargeable interest from V to P includes a reference to a disposal by V of an interest acquired by P.

### **Textual Amendments**

**F73** Ss. 75A-75C inserted (with effect in accordance with s. 71(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 71\(1\)](#) (with [s. 71\(3\)](#))

## **75C Anti-avoidance: supplemental**

- (1) A transfer of shares or securities shall be ignored for the purposes of section 75A if but for this subsection it would be the first of a series of scheme transactions.
- (2) The notional transaction under section 75A attracts any relief under this Part which it would attract if it were an actual transaction (subject to the terms and restrictions of the relief).
- (3) The notional transaction under section 75A is a land transaction entered into for the purposes of or in connection with the transfer of an undertaking or part for the purposes of paragraphs 7 and 8 of Schedule 7, if any of the scheme transactions is entered into for the purposes of or in connection with the transfer of the undertaking or part.

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- (4) In the application of section 75A(5) no account shall be taken of any amount paid by way of consideration in respect of a transaction to which any of sections 60, 61, 63, 64, 65, 66, 67, 69, 71, 74 and 75, or a provision of Schedule 6A or 8, applies.
- (5) In the application of section 75A(5) an amount given or received partly in respect of the chargeable interest acquired by P and partly in respect of another chargeable interest shall be subjected to just and reasonable apportionment.
- (6) Section 53 applies to the notional transaction under section 75A.
- (7) Paragraph 5 of Schedule 4 applies to the notional transaction under section 75A.
- (8) For the purposes of section 75A—
  - (a) an interest in a property-investment partnership (within the meaning of paragraph 14 of Schedule 15) is a chargeable interest in so far as it concerns land owned by the partnership, and
  - (b) where V or P is a partnership, Part 3 of Schedule 15 applies to the notional transaction as to the transfer of a chargeable interest from or to a partnership.
- (9) For the purposes of section 75A a reference to an amount of consideration includes a reference to the value of consideration given as money's worth.
- (10) Stamp duty land tax paid in respect of a land transaction which is to be disregarded by virtue of section 75A(4)(a) is taken to have been paid in respect of the notional transaction by virtue of section 75A(4)(b).
- (11) The Treasury may by order provide for section 75A not to apply in specified circumstances.
- (12) An order under subsection (11) may include incidental, consequential or transitional provision and may make provision with retrospective effect.]

#### **Textual Amendments**

**F73** Ss. 75A-75C inserted (with effect in accordance with s. 71(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 71\(1\)](#) (with [s. 71\(3\)](#))

**Status:**

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Finance Act 2003, Cross Heading: Reliefs is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.