



# 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.

#### **58 Relief for certain exchanges of residential property**

- (1) Where a dwelling (“the old dwelling”) is acquired from an individual (whether alone or with other individuals) by a house-building company or a company connected with a house-building company, the chargeable consideration for the acquisition is taken to be nil if—
  - (a) the individual (whether alone or with other individuals) acquires from the house-building company a new dwelling,
  - (b) the individual—
    - (i) occupied the old dwelling as his only or main residence immediately before its acquisition, and
    - (ii) intends to occupy the new dwelling as his only or main residence,

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- (c) each acquisition is entered into in consideration of the other, and
  - (d) the area of land acquired by the house-building company or the connected company does not exceed the permitted area.
- (2) Where the conditions in subsection (1)(a) to (c) are met but the area of land acquired by the house-building company or the connected company exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.
- (3) “Dwelling” includes land occupied and enjoyed with the dwelling as its garden or grounds.
- (4) A building or part of a building is a “new dwelling” if—
- (a) it has been constructed for use as a single dwelling and has not previously been occupied, or
  - (b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.
- (5) A “house-building company” means a company that carries on the business of constructing or adapting buildings or parts of buildings for use as dwellings.
- Section 839 of the Taxes Act 1988 (connected persons) applies for the purpose of determining whether a company is connected with a house-building company.
- (6) The “permitted area”, in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—
- (a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or
  - (b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.
- (7) Where subsection (6)(b) applies, the permitted area is taken to consist of that part of the old dwelling that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.
- (8) In this section—
- (a) references to the acquisition of the new dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
  - (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling;
  - (c) references to the market value of a dwelling, or of an area of land, are to the market value of the major interest in the dwelling, or of that interest so far as it relates to the area in question.

## **59 Relocation relief**

- (1) Where a dwelling is acquired from an employee (whether alone or with other individuals) by the employer or a relocation company, the acquisition is exempt from charge if—
- (a) the individual occupied the dwelling as his only or main residence at some time in the period of one year ending with the date of the acquisition,
  - (b) the acquisition is made in connection with a change of residence by the individual resulting from relocation of employment,

- (c) the consideration for the acquisition does not exceed the market value of the dwelling, and
  - (d) the area of land acquired does not exceed the permitted area.
- (2) Where the conditions in subsection (1)(a) to (c) are met but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.
- (3) “Relocation of employment” means a change of the individual’s place of employment due to—
  - (a) his becoming an employee of the employer,
  - (b) an alteration of the duties of his employment with the employer, or
  - (c) an alteration of the place where he normally performs those duties.
- (4) A change of residence is one “resulting from” relocation of employment if—
  - (a) the change is made wholly or mainly to allow the individual to have his residence within a reasonable daily travelling distance of his new place of employment, and
  - (b) the individual’s former residence is not within a reasonable daily travelling distance of that place.

The employee’s “new place of employment” means the place where he normally performs, or is normally to perform, the duties of his employment after the relocation.
- (5) “Relocation company” means—
  - (a) a company carrying on a business consisting of or including provision of the service of acquiring dwellings in connection with a change of residence resulting from relocation of employment, or
  - (b) a company connected with such a company.

Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of paragraph (b).
- (6) “Dwelling” includes land occupied and enjoyed with the dwelling as its garden or grounds.
- (7) The “permitted area”, in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—
  - (a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or
  - (b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.
- (8) Where subsection (7)(b) applies, the permitted area is taken to consist of that part of the dwelling that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.
- (9) In this section—
  - (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling;
  - (b) references to the market value of the dwelling, or of an area of land, are to the market value of the major interest in the dwelling, or of that interest so far as it relates to the area in question;

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- (c) references to an employee include a prospective employee (and references to the employer are to be construed accordingly).

## **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);
  - (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).

## **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 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

The National Assembly for Wales

***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

***Local government: Wales***

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

***Local government: Scotland***

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

***Local government: Northern Ireland***

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

***Health: England and Wales***

A Strategic Health Authority or Health Authority established under section 8 of the National Health Service Act 1977 (c. 49)

A Special Health Authority established under section 11 of that Act

A Primary Care Trust established under section 16A of that Act

A Local Health Board established under section 16BA of that Act

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A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19)

***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

***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))

***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).

***Prescribed persons***

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

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**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.

**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

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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.
- (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;

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“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.

#### **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.

#### **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.)).



## 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.

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

The National Assembly for Wales

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

### ***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

### ***Local government: Wales***

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

### ***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.))

***Health: England and Wales***

A Strategic Health Authority or Health Authority established under section 8 of the National Health Service Act 1977 (c. 49)

A Special Health Authority established under section 11 of that Act

A Primary Care Trust established under section 16A of that Act

A Local Health Board established under section 16BA of that Act

A National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19)

***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

***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))

***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)

***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

***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.

**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)—
- (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.

## **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.

## **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.

## **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.

## **71 Certain acquisitions by registered social landlord**

- (1) A land transaction under which the purchaser is a registered social landlord is exempt from charge if—
  - (a) the registered social landlord 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.
- (2) The reference in subsection (1)(a) to a registered social landlord “controlled by its tenants” is to a registered social landlord the majority of whose board members are tenants occupying properties owned or managed by it.
 

“Board member”, in relation to a registered social landlord, 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 registered social landlord.
- (3) In subsection (1)(b) “qualifying body” means—
  - (a) a registered social landlord,
  - (b) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50),
  - (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 subsection (1)(c) “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),

- (d) under section 2 of the Housing (Scotland) Act 1988 (c. 43) (general functions of the Scottish Ministers), or
- (e) under Article 33 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)).

## **72 Alternative property finance: land sold to financial institution and leased to individual**

- (1) This section applies where arrangements are entered into between an individual and a financial institution under which the institution—
  - (a) purchases a major interest in land (“the first transaction”),
  - (b) grants to the individual out of that interest a lease (if the interest acquired is freehold) or a sub-lease (if the interest acquired is leasehold) (“the second transaction”), and
  - (c) enters into an agreement under which the individual has a right to require the institution or its successor in title 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—
  - (a) the individual, 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 individual.
- (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 individual that results from the exercise of the right mentioned in subsection (1)(c) (“the third 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 and third transactions—
    - (i) the interest purchased under the first transaction is held by a financial institution, and
    - (ii) the lease or sub-lease granted under the second transaction is held by the individual.
- (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).
- (6) The requirements of subsection (1), or (4)(b)(ii), are not met if—
  - (a) the individual enters into the arrangement, or holds the lease or sub-lease, as trustee and any beneficiary of the trust is not an individual, or
  - (b) the individual enters into the arrangements, or holds the lease or sub-lease, as partner and any of the other partners is not an individual.
- (7) In this section “financial institution” means—
  - (a) a bank within the meaning of section 840A of the Taxes Act 1988,

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- (b) a building society within the meaning of the Building Societies Act 1986 (c. 53), or
- (c) a wholly-owned subsidiary of a bank within paragraph (a) or a building society within paragraph (b).

For the purposes of paragraph (c) a company is a wholly-owned subsidiary of a bank or building society (“the parent”) if it 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.

- (8) In the application of this section to Scotland—
  - (a) the reference to a freehold interest is a reference to the interest of the owner, and
  - (b) the reference to a leasehold interest is to a tenant’s right over or interest in a property subject to a lease.

Until the appointed day for the purposes of the [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), the reference in paragraph (a) to the interest of the owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.

- (9) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.

### **73 Alternative property finance: land sold to financial institution and re-sold to individual**

- (1) This section applies where arrangements are entered into between an individual 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 individual (“the second transaction”), and
  - (b) the individual grants the institution a legal mortgage over that interest.
- (2) The first transaction is exempt from charge if the vendor is—
  - (a) the individual concerned, or
  - (b) another financial institution by whom the interest was acquired under other arrangements of the kind mentioned in section 72(1) entered into between it and the individual.
- (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).
- (4) This section does not apply if—
  - (a) the individual enters into the arrangements as trustee and any beneficiary of the trust is not an individual, or
  - (b) the individual enters into the arrangements as partner and any of the other partners is not an individual.
- (5) In this section—
  - (a) “financial institution” has the same meaning as in section 72;
  - (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 an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.

#### **74 Collective enfranchisement by leaseholders**

- (1) This section applies where a chargeable transaction is entered into by an RTE company in pursuance of a right of collective enfranchisement.
- (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 flats in respect of which the right of collective enfranchisement is being exercised.
- (3) The tax chargeable is then determined by applying that rate to the chargeable consideration for the transaction.
- (4) In this section—
- (a) “RTE company” has the meaning given by section 4A of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28);
  - (b) “right of collective enfranchisement” means the right exercisable by an RTE company under—
    - (i) Part 1 of the Landlord and Tenant Act 1987 (c. 31), or
    - (ii) Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and
  - (c) “flat” has the same meaning as in the Act conferring the right of collective enfranchisement.
- (5) References in this section to the relevant consideration have the same meaning as in section 55.

#### **75 Crofting community right to buy**

- (1) This section applies where—
- (a) a chargeable transaction is entered into in pursuance of the crofting community right to buy, and
  - (b) 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.

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

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- (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.