



Finance Act 2003

2003 CHAPTER 14

PART 4

STAMP DUTY LAND TAX

Land transactions

44 Contract and conveyance

- (1) This section applies where a contract for a land transaction is entered into under which the transaction is to be completed by a conveyance.
- (2) A person is not regarded as entering into a land transaction by reason of entering into the contract, but the following provisions have effect.
- (3) If the transaction is completed without previously having been substantially performed, the contract and the transaction effected on completion are treated as parts of a single land transaction. In this case the effective date of the transaction is the date of completion.
- (4) If the contract is substantially performed without having been completed, the contract is treated as if it were itself the transaction provided for in the contract.

In this case the effective date of the transaction is when the contract is substantially performed.

- (5) A contract is “substantially performed” when—
 - (a) the purchaser^[F1], or a person connected with the purchaser,] takes possession of the whole, or substantially the whole, of the subject-matter of the contract, or
 - (b) a substantial amount of the consideration is paid or provided.
- (6) For the purposes of subsection (5)(a)—
 - [F2(a) possession includes receipt of rents and profits or the right to receive them, and]

Status: Point in time view as at 01/04/2010. This version of this provision has been superseded.

Changes to legislation: Finance Act 2003, Section 44 is up to date with all changes known to be in force on or before 12 June 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. (See end of Document for details)

- (b) it is immaterial whether [^{F3}possession is taken] under the contract or under a licence or lease of a temporary character.
- (7) For the purposes of subsection (5)(b) a substantial amount of the consideration is paid or provided—
- (a) if none of the consideration is rent, where the whole or substantially the whole of the consideration is paid or provided;
 - (b) if the only consideration is rent, when the first payment of rent is made;
 - (c) if the consideration includes both rent and other consideration, when—
 - (i) the whole or substantially the whole of the consideration other than rent is paid or provided, or
 - (ii) the first payment of rent is made.
- (8) Where subsection (4) applies and the contract is subsequently completed by a conveyance—
- (a) both the contract and the transaction effected on completion are notifiable transactions, and
 - (b) tax is chargeable on the latter transaction to the extent (if any) that the amount of tax chargeable on it is greater than the amount of tax chargeable on the contract.
- (9) Where subsection (4) applies and the contract is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of that subsection shall (to that extent) be repaid by the Inland Revenue.

Repayment must be claimed by amendment of the land transaction return made in respect of the contract.

[^{F4}(9A) Where—

- (a) paragraph 12A of Schedule 17A applies (agreement for lease), or
- (b) paragraph 19(3) to (6) of Schedule 17A applies (missives of let etc in Scotland),

it applies in place of subsections (4), (8) and (9).]

(10) In this section—

- (a) references to completion are to completion of the land transaction proposed, between the same parties, in substantial conformity with the contract; and
- (b) “contract” includes any agreement and “conveyance” includes any instrument.

[^{F5}(11) [^{F6}Section 1122 of the Corporation Tax Act 2010] (connected persons) has effect for the purposes of this section.]

Textual Amendments

- F1** Words in s. 44(5)(a) inserted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 15\(2\)](#) (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. 44(6)(a) substituted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 15\(3\)\(a\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty](#)

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Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), see Sch. 39 para. 14)

- F3** Words in s. 44(6)(b) substituted (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 39 para. 15(3)(b)** (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)
- F4** S. 44(9A) 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. 3**
- F5** S. 44(11) added (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 39 para. 15(4)** (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)
- F6** Words in s. 44(11) 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. 401** (with Sch. 2)

Commencement Information

- I1** Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, **Sch. 19 para. 1(1)**

Status:

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