



# Finance Act 2009

## 2009 CHAPTER 10

### PART 5

#### STAMP TAXES

##### *Stamp duty land tax*

#### **80 Exercise of collective rights by tenants of flats**

- (1) Section 74 of FA 2003 (collective enfranchisement by leaseholders) is amended as follows.
- (2) For subsection (1) substitute—
  - “(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).”
- (3) In subsection (2)—
  - (a) omit “In that case,” and
  - (b) for “flats in respect of which the right of collective enfranchisement is being exercised” substitute “qualifying flats contained in the premises”.
- (4) For subsection (4) substitute—
  - “(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;

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

- (5) For the heading substitute “**Exercise of collective rights by tenants of flats**”.
- (6) Accordingly, in section 55(5) of that Act (amount of tax chargeable), for “collective enfranchisement by leaseholders” substitute “ exercise of collective rights by tenants of flats ”.
- (7) The amendments made by this section have effect in relation to transactions with an effective date on or after 22 April 2009.

## 81 Registered providers of social housing

- (1) Part 4 of FA 2003 (stamp duty land tax) is amended as follows.
- (2) Section 71 (certain acquisitions by registered social landlord) is amended as follows.
- (3) Insert at the beginning—
  - “(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.”
- (4) In subsection (4), for “subsection (1)(c)” substitute “ this section ”.
- (5) Schedule 9 (right to buy etc) is amended as follows.
- (6) In paragraph 5 (shared ownership leases: “qualifying body” etc)—
  - (a) in sub-paragraph (2), insert at the end—
    - “(g) a registered provider of social housing that is not within paragraph (b) (subject to sub-paragraph (2A)).”, and
  - (b) after that sub-paragraph insert—
    - “(2A) A registered provider of social housing within sub-paragraph (2)(g) (“R”) is only a qualifying body in relation to a lease of premises if the following has been funded with the assistance of a grant or other financial assistance under section 19 of the Housing and Regeneration Act 2008—
      - (a) the purchase or construction of the premises by R (or a person connected with R), or
      - (b) the adaptation of the premises by R (or a person connected with R) for use as a dwelling.
- (2B) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of sub-paragraph (2A).”
- (7) In paragraph 7 (shared ownership trusts: introduction)—
  - (a) in sub-paragraph (3), omit “(within the meaning of paragraph 5(2))”, and
  - (b) insert at the end—
    - “(7) In Condition 2 “qualifying body” means—
      - (a) a qualifying body within the meaning of paragraph 5(2)(a) to (f), or

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- (b) a registered provider of social housing within paragraph 5(2)(g) (subject to sub-paragraph (8)).
- (8) A registered provider of social housing within paragraph 5(2)(g) (“R”) is only a qualifying body in relation to a shared ownership trust if the following has been or is being funded with the assistance of a grant or other financial assistance under section 19 of the Housing and Regeneration Act 2008—
  - (a) the purchase or construction of the trust property by R (or a person connected with R), or
  - (b) the adaptation of the trust property by R (or a person connected with R) for use as a dwelling.
- (9) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of sub-paragraph (8).”
- (8) The amendments made by this section have effect in relation to transactions with an effective date on or after the day on which this Act is passed.

## **82 Rent to shared ownership**

- (1) In Schedule 9 to FA 2003 (stamp duty land tax: right to buy etc), insert at the end—

### **“Rent to shared ownership lease: charge to tax**

- 13 (1) The chargeable consideration for transactions forming part of a rent to shared ownership lease scheme is determined in accordance with this paragraph.
- (2) A “rent to shared ownership lease scheme” means a scheme or arrangement under which a qualifying body—
  - (a) grants an assured shorthold tenancy of a dwelling to a person (“the tenant”) or persons (“the tenants”), and
  - (b) subsequently grants a shared ownership lease of the dwelling or another dwelling to the tenant or one or more of the tenants.
- (3) The following transactions are to be treated as if they were not linked to each other—
  - (a) the grant of the assured shorthold tenancy,
  - (b) the grant of the shared ownership lease, and
  - (c) any other land transaction between the qualifying body and the tenant, or any of the tenants, entered into as part of the scheme.
- (4) For the purpose of determining the effective date of the grant of the shared ownership lease, the possession of the dwelling by the tenant or tenants pursuant to the assured shorthold tenancy is to be disregarded.
- (5) In this paragraph—
  - “assured shorthold tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
  - “qualifying body” has the same meaning as in paragraph 5;
  - “shared ownership lease” has the same meaning as in paragraph 4A.

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### **Rent to shared ownership trust: charge to tax**

- 14 (1) The chargeable consideration for transactions forming part of a rent to shared ownership trust scheme is determined in accordance with this paragraph.
- (2) A “rent to shared ownership trust scheme” means a scheme or arrangement under which—
- (a) a qualifying body grants an assured shorthold tenancy of a dwelling to a person (“the tenant”) or persons (“the tenants”), and
  - (b) the tenant, or one or more of tenants, subsequently becomes the purchaser under a shared ownership trust of the dwelling, or another dwelling, under which the qualifying body is the social landlord.
- (3) The following transactions are to be treated as if they were not linked to each other—
- (a) the grant of the assured shorthold tenancy,
  - (b) the declaration of the shared ownership trust, and
  - (c) any other land transaction between the qualifying body and the tenant, or any of the tenants, entered into as part of the scheme.
- (4) For the purpose of determining the effective date of the declaration of the shared ownership trust, the possession of the dwelling by the tenant or tenants pursuant to the assured shorthold tenancy is to be disregarded.
- (5) In this paragraph—
- “assured shorthold tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
  - “qualifying body” has the same meaning as in paragraph 5;
  - “social landlord” and “purchaser”, in relation to a shared ownership trust, have the same meaning as in paragraph 7.”
- (2) The amendment made by subsection (1) has effect in relation to cases in which the effective date of the grant of the shared ownership lease or the declaration of the shared ownership trust is on or after 22 April 2009.
- (3) Paragraphs 13(4) and 14(4) of Schedule 9 to FA 2003 (inserted by this section) have effect for the purposes of subsection (2).

### *Stock lending arrangements*

## **83 Stamp taxes in event of insolvency**

- (1) Schedule 37 contains provision amending Part 3 (stamp duty) and Part 4 (stamp duty reserve tax) of FA 1986 in respect of repurchase and stock lending arrangements in the event of the insolvency of one of the parties.
- (2) The amendments made by that Schedule have effect where the insolvency in question occurs on or after 1 September 2008.
- (3) This section and that Schedule cease to have effect—

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- (a) in relation to the amendments made to Part 3 of FA 1986, when the repeal of sections 80 to 85 of that Act (by Part 6 of Schedule 19 to, and in accordance with sections 107 to 109 of, FA 1990) comes into force, and
- (b) in relation to the amendment made to Part 4 of FA 1986, when the repeal of that Part (by Part 7 of Schedule 19 to, and in accordance with section 110 of, FA 1990) comes into force.

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

**C1** [S. 83](#) ceases to have effect in accordance with s. 83(3)

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