

*Status: Point in time view as at 31/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, Part 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### SCOTTISH TAX ON LAND TRANSACTIONS: CONSEQUENTIAL AMENDMENTS

##### PART 1

##### DISAPPLICATION OF STAMP DUTY LAND TAX TO SCOTLAND

###### *Finance Act 1931*

- 1 (1) Section 28 of the Finance Act 1931 (production to Commissioners of instruments transferring land) is amended as follows.
- (2) In subsection (3), omit “or” after paragraph (a) and after paragraph (b) insert “; or (c) to a Scottish transaction.”
- (3) After subsection (3) insert—
- “(3A) In subsection (3) “Scottish transaction” means the acquisition of—
- (a) an estate, interest, right or power in or over land in Scotland, or
  - (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.”

###### *Finance Act 2003*

- 2 The Finance Act 2003 is amended as follows.
- 3 Omit section 44(9A)(b) (application of provisions relating to missives of let etc).
- 4 In section 48 (chargeable interests)—
- (a) in subsection (2)(c) omit “in England and Wales or Northern Ireland”;
  - (b) omit subsection (4);
  - (c) in subsection (5) for “the United Kingdom” substitute “England and Wales or Northern Ireland”.
- 5 In section 55(5) (additional provisions determining amount of tax chargeable)—
- (a) omit the reference to section 75 and the word “and” preceding it;
  - (b) for “provide” substitute “provides”.
- 6 In section 57AA (first-time buyers)—
- (a) in subsection (2)(b) after “under the law of” insert “Scotland or”;
  - (b) in subsection (2)(c) omit “72, 72A”.
- 7 In section 60 (compulsory purchase facilitating development)—
- (a) in subsection (2)(a), omit “or Scotland”;
  - (b) omit subsection (5)(b).

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- 8 (1) Section 61 (compliance with planning obligations) is amended as follows.
- (2) Omit subsection (2)(b) (definition of planning obligation in Scotland).
- (3) In subsection (3) (public authorities)—
- (a) under the heading “Government”, omit the entry “The Scottish Ministers”;
  - (b) omit the heading “Local Government: Scotland” and the entry under that heading;
  - (c) omit the heading “Health: Scotland” and the entries under that heading;
  - (d) under the heading “Other planning authorities” omit paragraph (b) and the word “or” preceding it.
- 9 Omit section 71A(10) (disapplication of section to Scotland).
- 10 Omit sections 72 and 72A (alternative property finance in Scotland).
- 11 In section 73 (alternative property finance: land sold and re-sold)—
- (a) in subsection (2)(b) omit “, 72(1) or 72A(1)”;
  - (b) omit subsection (5)(b)(ii).
- 12 (1) In section 73AB (arrangements to transfer control of financial institution)—
- (a) in subsection (1) omit “, 72 or 72A”;
  - (b) in subsection (3), in the definition of “alternative finance arrangements” omit “, 72(1) or 72A(1)”.
- (2) In the heading to that section, for “Sections 71A to 72A” substitute “ Section 71A ”.
- 13 (1) Section 73B (exempt interests) is amended as follows.
- (2) In subsection (1) omit “, 72(1)(a) or 72A(1)(a)”.
- (3) In subsection (2)—
- (a) in paragraph (a) omit “, 72(1)(b) or 72A(1)(b)”;
  - (b) in paragraph (b) omit “, 72(1)(c) or 72A(1)(c)”.
- (4) In subsection (4)(b) omit “, 72(4) or 72A(4)”.
- 14 In section 73CA (application of sections 71A to 73 to first-time buyers), in subsection (1) omit “, 72, 72A”.
- 15 Omit section 75 (crofting community right to buy).
- 16 In section 75C (anti-avoidance: supplemental), in subsection (4) for “, 74 and 75” substitute “ and 74 ”.
- 17 In section 77 (notifiable transactions), in subsection (2)(a) omit “and 72A(7)”.
- 18 In section 79 (registration of land transactions etc)—
- (a) omit subsection (1)(b) (registration in Scotland);
  - (b) in subsection (2)(c) omit “or 19(3)”;
  - (c) in subsection (6) omit “(in Scotland, the Keeper of the Registers of Scotland)”.
- 19 In section 108 (linked transactions) after subsection (1) insert—
- “(1A) A transaction is not a linked transaction if the land to which it relates is in Scotland.”
- 20 Omit section 117(3) (meaning of “major interest” in land in Scotland).

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- 21 In section 119(2) (provisions as to effective date of transaction), omit the reference to paragraph 19(3) of Schedule 17A.
- 22 In section 121 (minor definitions) omit—
- (a) the definition of “assignment”;
  - (b) the definition of “completion”;
  - (c) paragraph (b) of the definition of “jointly entitled”;
  - (d) the definition of “standard security”;
  - (e) the definition of “surrender”.
- 23 In section 122 (index of defined expressions) omit the entries relating to—
- (a) assignment (in Scotland);
  - (b) completion (in Scotland);
  - (c) standard security;
  - (d) surrender (in Scotland).
- 24 (1) Schedule 4 (chargeable consideration) is amended as follows.
- (2) In paragraph 8(1C), omit “in England and Wales and Northern Ireland”.
  - (3) Omit paragraph 10(2A)(c) (application of provisions relating to missives of let etc).
  - (4) Omit paragraph 17(5) (arrangements involving public or educational bodies).
- 25 (1) Schedule 10 (returns, etc) is amended as follows.
- (2) In paragraph 7(1A) (correction of return by certain persons) omit paragraph (b).
  - (3) In paragraph 45(2) (definition of “relevant tribunal”) omit paragraph (b).
- 26 (1) Schedule 15 (partnerships) is amended as follows.
- (2) In paragraph 12(2) omit “(or, in Scotland, as joint owners)” and “(or, in Scotland, as owners in common)”.
  - (3) In paragraph 20(2) omit “(or, in Scotland, as joint owners)” and “(or, in Scotland, as owners in common)”.
- 27 (1) Schedule 17A (further provision relating to leases) is amended as follows.
- (2) In paragraph 1 (meaning of “lease”) for “In the application of this Part to England and Wales or Northern Ireland” substitute “ In this Part ”.
  - (3) In paragraph 4 (leases for indefinite term), in sub-paragraph (5)(b) omit “in England and Wales or Northern Ireland”.
  - (4) In paragraph 7 (variable or uncertain rent), omit sub-paragraph (4A)(c) and (d).
  - (5) In paragraph 10 (tenants' obligations etc that do not count as chargeable consideration), in sub-paragraph (1)(a) omit “(in Scotland, the leased premises)”.
  - (6) In paragraph 12A(1) (agreement for lease) omit “in England and Wales or Northern Ireland”.
  - (7) In paragraph 12B(1) (assignment of agreement for lease) omit “in England and Wales or Northern Ireland”.

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- (8) In paragraph 13 (increase of rent treated as grant of new lease: variation of lease in first five years), in sub-paragraph (2)(b) for “any of paragraphs (a) to (d)” substitute “paragraph (a) or (b)”.
- (9) In paragraph 14 (increase of rent treated as grant of new lease: abnormal increase after fifth year), in sub-paragraph (7)(b) omit “or 19(3)”.
- (10) Omit paragraph 19 (provisions relating to leases in Scotland).

*Finance Act 2004*

- 28 In section 298 of the Finance Act 2004 (stamp duty land tax: notification etc), omit subsection (3).

*Finance (No. 2) Act 2005*

- 29 In section 47 of the Finance (No. 2) Act 2005 (e-conveyancing) omit—
  - (a) subsection (1);
  - (b) subsection (6)(b).

*Finance Act 2006*

- 30 In Schedule 25 to the Finance Act 2006 (amendments of Schedule 17A to Finance Act 2003), omit paragraph 5.

*Finance Act 2009*

- 31 (1) Schedule 61 to the Finance Act 2009 (alternative finance investment bonds) is amended as follows.
  - (2) Paragraph 1 (interpretation) is amended as follows.
  - (3) In sub-paragraph (1)—
    - (a) before the definition of “HMRC” insert—

““effective date”, for a transaction relating to land in Scotland, is the date which would be the effective date (under section 119 of FA 2003) if Part 4 of FA 2003 applied to land in Scotland;”;
    - (b) omit the definition of “qualifying interest”.
  - (4) After sub-paragraph (1) insert—

“(1A) In this Schedule “qualifying interest”—

    - (a) in relation to land in England and Wales or Northern Ireland, means a major interest in land (within the meaning given by section 117 of FA 2003) except that it does not include a lease for a term of years of 21 years or less;
    - (b) in relation to land in Scotland, means—
      - (i) the interest of an owner of land, or
      - (ii) the tenant's right over or interest in a property subject to a lease,

except that it does not include a lease for a period of 21 years or less.”

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- (5) Paragraph 5 (conditions for operation of relief) is amended as follows.
- (6) In sub-paragraph (6) (Condition D)—
  - (a) after “Condition D” insert “ (which applies in the case of land in England and Wales or Northern Ireland) ”;
  - (b) omit paragraph (b).
- (7) In sub-paragraph (7) (charge or security for purposes of Condition D)—
  - (a) omit “or security”;
  - (b) in paragraph (a) omit “, or a security ranking first granted over,”.
- (8) In paragraph 6(1)(a) (relief from stamp duty land tax) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”.
- (9) In paragraph 7 (withdrawal of relief in certain circumstances)—
  - (a) in sub-paragraph (1) after “This paragraph applies if” insert “ paragraph 6 applies but ”;
  - (b) in sub-paragraph (2) after “This paragraph also applies if” insert “ paragraph 6 applies but ”.
- (10) In paragraph 9 (discharge of charge when conditions for relief met) omit “or security”.
- (11) In paragraph 11(2) (disapplication of CGT relief if charge not given) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”.
- (12) In paragraph 12(1)(b) (CGT relief on second transaction) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”.
- (13) In paragraph 18(5) and (6) (discharge of charge if original land replaced)—
  - (a) for “the United Kingdom” substitute “ England and Wales or Northern Ireland ”;
  - (b) omit “or security”.
- (14) In paragraph 19(1) (HMRC to notify Registrar of discharge)—
  - (a) omit “or security”;
  - (b) omit paragraph (b).

*Public Finance and Accountability (Scotland) Act 2000 (asp 1)*

- 32 In section 9(1) of the Public Finance and Accountability (Scotland) Act 2000 (Keeper of the Registers of Scotland: financial arrangements) omit “(other than payments of stamp duty land tax)”.

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