

LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Schedule 19 – Leases

Part 6 – Other Provisions about Leases

Leases that continue after a fixed term

290. Paragraph 20 applies to leases that continue after a fixed term either by agreement between the parties or by operation of law (such as the Scots law principle of *tacit relocation*). Under sub-paragraph (2), such a lease is treated as if it were a lease for the original fixed term and no longer. If it continues after the end of the term, it is treated as if it were a lease for 1 year longer. As it continues, each year a further year is added to the term of the lease.
291. Sub-paragraph (3) provides that where a lease transaction that was not previously notifiable to the Tax Authority becomes notifiable because of the continuation of the lease beyond its fixed term, a return will be required. The return must be made within 30 days of the day at the end of the 1 year period as a result of which it became notifiable. Sub-paragraph (3)(c) clarifies that the tax rates and bands to be applied in calculating the tax chargeable are those that were in force at the effective date of the transaction.
292. Where a lease continues beyond its fixed term and paragraph 20 would apply but during the 1 year period beyond the fixed term a new lease is granted to the tenant for the same (or substantially the same) premises, then paragraph 21 disapplies the provisions of paragraph 20. The new lease is treated as beginning immediately after the end of the fixed term of the original lease. Sub-paragraph (4) of paragraph 21 provides that any rent which was payable under the original lease after the end of the fixed term is treated as payable under the new lease. Sub-paragraph (5) provides that if the original lease has been extended more than once under the provisions of paragraph 20, then paragraph 21 disapplies paragraph 20 from the end of the last 1 year period when the lease was extended.