

LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Part 4 – Returns and Payment

Chapter 3 of Part 4 – Registration of Land Transactions Etc.

Registration of land transactions etc.

Section 43 – Return to be made and tax paid before application for registration

113. [Section 43](#) creates a link between land registration and payment of LBTT by providing that documents effecting or evidencing a land transaction may not be registered by, or otherwise reflected in an entry in a register under the management and control of, the Keeper of the Registers of Scotland unless a land transaction return has been made and any LBTT payable has been paid. “Paid” for this purpose does not necessarily mean that the Tax Authority has cleared funds in respect of the tax. The Authority may accept arrangements satisfactory for payment, such as a solicitor’s cheque or direct debit instruction.¹ It is for the Authority to decide what will count as satisfactory. If registration proceeds but the arrangement for payment falls through the sum due is still payable to the Tax Authority.
114. This rule will have most relevance to standard conveyancing transactions where the buyer cannot obtain a real right in land until the disposition in the buyer’s favour has been registered in the Land Register. But the rule will also have relevance in relation to other registers under the management and control of the Keeper, for example the Books of Council and Session if a short non-residential lease² is registered there voluntarily for preservation and execution.
115. If a document effecting or evidencing a notifiable transaction does not require to be registered and is not registered voluntarily then the link with registration does not apply.
116. Defined terms used in this section:

“land transaction return”	section 65
“notifiable transaction”	section 30
“payment”	section 40

¹ Similar provisions exist in relation the payment of land registration fees - see section 22(1)(e)(ii) of the [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#)

² A “short” lease is a lease of under 20 years. “Long” commercial leases i.e. those over 20 years must be registered in the Land Register. New long residential leases are generally incompetent, subject to exceptions.