



Finance Act 2003

2003 CHAPTER 14

PART 4

STAMP DUTY LAND TAX

Interpretation etc

116 Meaning of “residential property”

- (1) In this Part “residential property” means—
- (a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use, and
 - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land), or
 - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b);

and “non-residential property” means any property that is not residential property.

This is subject to the rule in subsection (7) in the case of a transaction involving six or more dwellings.

- (2) For the purposes of subsection (1) a building used for any of the following purposes is used as a dwelling—
- (a) residential accommodation for school pupils;
 - (b) residential accommodation for students, other than accommodation falling within subsection (3)(b);
 - (c) residential accommodation for members of the armed forces;
 - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3).
- (3) For the purposes of subsection (1) a building used for any of the following purposes is not used as a dwelling—
- (a) a home or other institution providing residential accommodation for children;

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- (b) a hall of residence for students in further or higher education;
 - (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
 - (d) a hospital or hospice;
 - (e) a prison or similar establishment;
 - (f) a hotel or inn or similar establishment.
- (4) Where a building is used for a purpose specified in subsection (3), no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use.
- (5) Where a building that is not in use is suitable for use for at least one of the purposes specified in subsection (2) and at least one of those specified in subsection (3)—
- (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same sub-paragraph, no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use,
 - (b) otherwise, the building shall be treated for those purposes as suitable for use as a dwelling.
- (6) In this section “building” includes part of a building.
- (7) Where six or more separate dwellings are the subject of a single transaction involving the transfer of a major interest in, or the grant of a lease over, them, then, for the purposes of this Part as it applies in relation to that transaction, those dwellings are treated as not being residential property.
- (8) The Treasury may by order—
- (a) amend subsections (2) and (3) so as to change or clarify the cases where use of a building is, or is not to be, use of a building as a dwelling for the purposes of subsection (1);
 - (b) amend or repeal subsection (7) and the reference to that subsection in subsection (1).

Any such order may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

117 Meaning of “major interest” in land

- (1) References in this Part to a “major interest” in land shall be construed as follows.
- (2) In relation to land in England or Wales, the references are to—
- (a) an estate in fee simple absolute, or
 - (b) a term of years absolute,
- whether subsisting at law or in equity.
- (3) In relation to land in Scotland, the references are to—
- (a) the interest of an owner of land, or
 - (b) the tenant’s right over or interest in a property subject to a lease.

Until the appointed day for the purposes of the [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), the reference in paragraph (a) to the interest of the

owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.

- (4) In relation to land in Northern Ireland, the references are to—
- (a) any freehold estate, or
 - (b) any leasehold estate,
- whether subsisting at law or in equity.

118 Meaning of “market value”

For the purposes of this Part “market value” shall be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) (see sections 272 to 274 of that Act).

119 Meaning of “effective date” of a transaction

- (1) Except as otherwise provided, the effective date of a land transaction for the purposes of this Part is the date of completion.
- (2) Other provision as to the effective date of certain descriptions of land transaction is made by—
- section 44(4) (contract and conveyance: contract substantially performed without having been completed), and
 - section 46(3) (options and rights of pre-emption).

120 Meaning of “lease” and other supplementary provisions

- (1) In the application of this Part to England and Wales or Northern Ireland “lease” means—
- (a) an interest or right in or over land for a term of years (whether fixed or periodic), or
 - (b) a tenancy at will or other interest or right in or over land terminable by notice at any time.
- (2) In this Part—
- (a) references to a lease for a definite term are to a lease for a fixed term, and
 - (b) references to a lease for an indefinite term are to—
 - (i) a periodic tenancy or other interest or right terminable by a period of notice,
 - (ii) a tenancy at will in England and Wales or Northern Ireland, or
 - (iii) any other interest or right terminable by notice at any time.
- (3) A lease granted for a fixed term and thereafter until determined is treated for the purposes of this Part as a lease for a definite term equal to the fixed term together with such further period as must elapse before the earliest date at which the lease can be determined.
- (4) In the application of this Part to Scotland references to the reversion on a lease shall be read as references to the interest of the landlord in the property subject to the lease.
- (5) Where tax has been paid in respect of a land transaction (“the first transaction”) that involves missives of let in Scotland that constitute a lease, and subsequent to those missives of let a lease is granted (“the second transaction”) which either—

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- (a) is in conformity with the missives of let, or
 - (b) relates to substantially the same property and period as the missives of let,
- the tax that would otherwise be charged in respect of the second transaction is reduced by the amount of tax paid in respect of the first transaction in respect of the missives of let.

121 Minor definitions

In this Part—

- “assignment”, in Scotland, means assignation;
- “completion”, in Scotland, means—
 - (a) in relation to a lease, when it is executed by the parties (that is to say, by signing) or constituted by any means;
 - (b) in relation to any other transaction, the settlement of the transaction;
- “employee” includes an office-holder and related expressions have a corresponding meaning;
- “jointly entitled” means—
 - (a) in England and Wales, beneficially entitled as joint tenants or tenants in common,
 - (b) in Scotland, entitled as joint owners or owners in common,
 - (c) in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;
- “land” includes—
 - (a) buildings and structures, and
 - (b) land covered by water;
- “registered social landlord” means—
 - (a) in relation to England and Wales, a body registered as a social landlord in a register maintained under section 1(1) of the Housing Act 1996 (c. 52);
 - (b) in relation to Scotland, a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10);
 - (c) in relation to Northern Ireland, a housing association registered in the register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));
- “standard security” has the meaning given by the Conveyancing and Feudal Reform (Scotland) Act 1970 (c. 35);
- “statutory provision” means any provision made by or under an Act of Parliament, an Act of the Scottish Parliament or any Northern Ireland legislation;
- “surrender”, in Scotland, means renunciation;
- “tax”, unless the context otherwise requires, means tax under this Part.

122 Index of defined expressions

In this Part the expressions listed below are defined or otherwise explained by the provisions indicated—

acquisition relief	Schedule 7, paragraph 8(1)
assignment (in Scotland)	section 121

bare trust	Schedule 16, paragraph 1(2)
the Board (in relation to the Inland Revenue)	section 42(3)
chargeable consideration	section 50 and Schedule 4
chargeable interest	section 48(1)
chargeable transaction	section 49
charities relief	Schedule 8, paragraph 1(1)
closure notice	Schedule 10, paragraph 23(1) (in relation to a land transaction return); Schedule 11, paragraph 16(1) (in relation to a self-certificate)
company	section 100 (except as otherwise expressly provided)
completion (in Scotland)	section 121
contingent (in relation to consideration)	section 51(3)
delivery (in relation to a land transaction return)	Schedule 10, paragraph 2(2)
discovery assessment	Schedule 10, paragraph 28(1)
effective date (in relation to a land transaction)	section 119
employee	section 121
exempt interest	section 48(2) to (5)
filing date (in relation to a land transaction return)	Schedule 10, paragraph 2(1)
implementation date	Schedule 19, paragraph 2(2)
the Inland Revenue	section 113
jointly entitled	section 121
land	section 121
land transaction	section 43(1)
land transaction return	section 76(1)
lease (and related expressions)	section 120
linked transactions	section 108
main subject-matter (in relation to a land transaction)	section 43(6)
major interest (in relation to land)	section 117
market value	section 118
notice of enquiry	Schedule 10, paragraph 12(1) (in relation to a land transaction return); Schedule 11,

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	paragraph 7(1) (in relation to a self-certificate)
notifiable (in relation to a land transaction)	section 77
partnership (and related expressions)	Schedule 15, paragraphs 1 to 4
purchaser	section 43(4)
rate of tax	section 55(7)
reconstruction relief	Schedule 7, paragraph 7(1)
registered social landlord	section 121
residential property	section 116
Revenue determination	Schedule 10, paragraph 25(1)
self-assessment	section 76(3)(a)
self-certificate	section 79(3)(b)
settlement	Schedule 16, paragraph 1(1)
standard security	section 121
statutory provision	section 121
subject-matter (in relation to a land transaction)	section 43(6)
substantial performance (in relation to a contract)	section 44(5) to (7)
surrender (in Scotland)	section 121
tax	section 121
uncertain (in relation to consideration)	section 51(3)
unit holder	section 101(4)
unit trust scheme	section 101(4)
vendor	section 43(4)
