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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2005, Cross Heading: Alternative property finance: Scotland. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 8

#### STAMP DUTY LAND TAX: ALTERNATIVE PROPERTY FINANCE

##### *Alternative property finance: Scotland*

- 3 (1) Section 72 (alternative property finance: land sold to financial institution and leased to individual) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b)—
- (i) for “freehold” substitute “ the interest of the owner ”, and
- (ii) for “leasehold” substitute “ the tenant's right over or interest in a property subject to a lease ”,; and
- (b) in paragraph (c), omit “or its successor in title”.
- (3) For subsection (7) substitute—
- “(7) In this section “financial institution” has the same meaning as in section 71A.”
- (4) Omit subsection (8).
- (5) After subsection (9) insert—
- “(10) This section applies only in relation to land in Scotland.”
- (6) In the heading, after “finance” insert “ in Scotland ”.
- 4 After section 72 insert—

##### **“72A Alternative property finance in Scotland: land sold to financial institution and individual in common**

- (1) This section applies where arrangements are entered into between an individual and a financial institution under which—
- (a) the institution and the individual purchase a major interest in land as owners in common (“the first transaction”),
- (b) the institution and the individual enter into an agreement under which the individual has a right to occupy the land exclusively (“the second transaction”), and
- (c) the institution and the individual enter into an agreement under which the individual has a right to require the institution to transfer to the individual (in one transaction or a series of transactions) the whole interest purchased under the first transaction.
- (2) The first transaction is exempt from charge if the vendor is—
- (a) the individual, or

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- (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the individual.
- (3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).
- (4) Any transfer to the individual that results from the exercise of the right mentioned in subsection (1)(c) (“a further transaction”) is exempt from charge if—
  - (a) the provisions of this Part relating to the first transaction are complied with, and
  - (b) at all times between the first and the further transaction—
    - (i) the interest purchased under the first transaction is held by a financial institution and the individual as owners in common, and
    - (ii) the land is occupied by the individual under the agreement mentioned in subsection (1)(b).
- (5) The agreement mentioned in subsection (1)(c) is not to be treated—
  - (a) as substantially performed unless and until the whole interest purchased by the institution under the first transaction has been transferred (and accordingly section 44(5) does not apply), or
  - (b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).
- (6) The requirements of subsection (1), or (4)(b)(ii), are not met if the individual enters into the arrangements, or occupies the land, as partner and any of the other partners is not an individual.
- (7) A further transaction that is exempt from charge by virtue of subsection (4) is not a notifiable transaction unless the transaction involves the transfer to the individual of the whole interest purchased by the institution under the first transaction, so far as not transferred by a previous further transaction.
- (8) In this section “financial institution” has the same meaning as in section 71A.
- (9) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.
- (10) This section applies only in relation to land in Scotland.”

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