Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, SCHEDULE 25. (See end of Document for details)

## SCHEDULES

## **SCHEDULE 25**

Section 164

## STAMP DUTY LAND TAX: AMENDMENTS OF SCHEDULE 17A TO FA 2003

#### Introduction

Schedule 17A (stamp duty land tax: further provisions relating to leases) is amended as follows.

Agricultural tenancies variable under statutory provisions

- 2 (1) In paragraph 7 (variable or uncertain rent), after sub-paragraph (4) insert—
  - "(4A) For the purposes of this paragraph and paragraph 8, the cases where the amount of rent payable under a lease is uncertain or unascertained include cases where there is a possibility of that amount being varied under—
    - (a) section 12, 13 or 33 of the Agricultural Holdings Act 1986,
    - (b) Part 2 of the Agricultural Tenancies Act 1995,
    - (c) section 13, 14, 15 or 31 of the Agricultural Holdings (Scotland) Act 1991, or
    - (d) section 9, 10 or 11 of the Agricultural Holdings (Scotland) Act 2003."
  - (2) In paragraph 13(2), for the words after "increase of rent" substitute "in pursuance of—
    - (a) a provision contained in the lease, or
    - (b) a provision mentioned in any of paragraphs (a) to (d) of paragraph 7(4A)."

Backdated lease granted to tenant holding over

3 (1) After paragraph 9 insert—

"Backdated lease granted to tenant holding over

- 9A (1) This paragraph applies where—
  - (a) the tenant under a lease continues in occupation after the date on which, under its terms, the lease terminates ("the contractual termination date"),
  - (b) he is granted a new lease of the same or substantially the same premises, and
  - (c) the term of the new lease is expressed to begin on or immediately after the contractual termination date.

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- (2) The term of the new lease is treated for the purposes of this Part as beginning on the date on which it is expressed to begin.
- (3) The rent payable under the new lease in respect of any period falling—
  - (a) after the contractual termination date, and
  - (b) before the date on which the new lease is granted,

is treated for the purposes of this Part as reduced by the amount of taxable rent that is payable in respect of that period otherwise than under the new lease.

- (4) For the purposes of sub-paragraph (3) rent is "taxable" if or to the extent that it is taken into account in determining liability to stamp duty land tax.
- (5) Sub-paragraph (3) does not have effect so as to require the rent payable under the new lease to be treated as a negative amount."
- (2) In paragraph 7(3), for the words after "but disregard" substitute "paragraphs 9(2) and 9A(3) (deemed reduction of rent, where further lease granted, for period during which rents overlap) ".

Dis	capplication of "single lease" treatment where agreement for lease followed by grant
Textı	ual Amendments
F1	Sch. 25 para. 4 omitted (with effect in accordance with Sch. 41 para. 8(4) of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 41 para. 6(4)
F2F35	
Textı	nal Amendments
F2	Sch. 25 para. 5 omitted (with effect in accordance with Sch. 41 para. 8(4) of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 41 para. 6(4)
F3	Sch. 25 para. 5 omitted (1.7.2012, 1.4.2015) by virtue of Scotland Act 2012 (c. 11), s. 44(2)(b)(3)(b),

Disapplication of "new lease" treatment for certain rent increases after fifth year

- 6 (1) In paragraph 13 (increase in rent treated as grant of new lease: variation of lease), in the heading, after "variation of lease" insert "in first five years".
  - (2) In sub-paragraph (1) of that paragraph, after "to increase the amount of the rent" insert "as from a date before the end of the fifth year of the term of the lease".

	Abnormal	rent increase	after fifth yea
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**Sch. 3 para. 30** (with s. 29(5)(6)); S.I. 2015/637, art. 2

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## **Textual Amendments**

F4 Sch. 25 para. 7 repealed (with effect in accordance with Sch. 41 para. 8(5) of the amending Act) by Finance Act 2013 (c. 29), Sch. 41 para. 7(2)(a)

<sup>F5</sup>8 .....

#### **Textual Amendments**

F5 Sch. 25 para. 8 repealed (with effect in accordance with Sch. 41 para. 8(5) of the amending Act) by Finance Act 2013 (c. 29), Sch. 41 para. 7(2)(a)

#### Commencement

- 9 (1) Paragraph 2 has effect in relation to any lease granted or treated as granted on or after commencement day.
  - (2) Paragraph 3 has effect in relation to any case where—
    - (a) the grant of the old lease was chargeable to stamp duty land tax, and
    - (b) the new lease is granted on or after commencement day.
      - "The old lease" and "the new lease" mean the leases referred to in subparagraphs (1)(a) and (1)(b), respectively, of paragraph 9A of Schedule 17A to FA 2003 (inserted by paragraph 3).
  - (3) Paragraphs 4 and 5 have effect in relation to any agreement that is substantially performed on or after commencement day.
  - (4) Paragraph 6 has effect in relation to any variation of a lease made on or after commencement day.
  - - (6) In this paragraph "commencement day" means the day on which this Act is passed.

#### **Textual Amendments**

F6 Sch. 25 para. 9(5) repealed (with effect in accordance with Sch. 41 para. 8(5) of the amending Act) by Finance Act 2013 (c. 29), Sch. 41 para. 7(2)(a)

# **Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2006, SCHEDULE 25.