EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 4 of the Finance Act 2003 (c. 14) ("the 2003 Act") introduces stamp duty land tax. The implementation date for the purposes of stamp duty land tax is 1st December 2003 (see generally paragraph 2 of Schedule 19 to the 2003 Act).

Part 5 of the 2003 Act provides that, following the introduction of stamp duty land tax, and subject to transitional provisions for certain land transactions, stamp duty will be chargeable under Schedule 13 to the Finance Act 1999 (c. 16) only on instruments relating to stock or marketable securities.

Section 109 of the 2003 Act provides that the Treasury may if they consider it expedient in the public interest make provision by regulations for the variation of Part 4 of that Act in its application to land transactions of any description. A similar power relating to stamp duty is contained in paragraph 1 of Schedule 33 to the Finance Act 2000 (c. 17). These Regulations are made under both those powers.

Regulation 1 provides for citation and commencement.

Regulation 2 introduces the amendments to the 2003 Act which are set out in the Schedule.

Regulation 3 revokes the Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) Regulations 2003 (S.I. 2003/2760). These Regulations supersede that instrument, which contained errors in the formula for computing lease duty. In consequence they are being issued free of charge to all known recipients of that instrument.

Paragraph 1 of the Schedule amends section 44 of the 2003 Act so that a contract is "substantially performed" for the purposes of that section not only where the purchaser takes possession but also where a person connected with the purchaser takes possession.

Paragraph 2 of the Schedule inserts a new section 57A in the 2003 Act providing for a relief from stamp duty land tax for the leaseback element of a sale and leaseback arrangement.

Paragraph 3 of the Schedule substitutes a new section 58A for sections 58 and 59 of the 2003 Act, inserts a new Schedule 6A in that Act and makes various other amendments in consequence. The new Schedule 6A contains a number of reliefs for certain acquisitions of residential property and for relocations.

Paragraph 4 of the Schedule inserts a new section 64A in the 2003 Act providing for a relief on the initial acquisition of assets by trustees of a unit trust scheme.

Paragraph 5 of the Schedule inserts a new section 81A in the 2003 Act providing for a return or further return in consequence of later linked transaction and makes various other amendments in consequence.

Paragraph 6 inserts a new section 81B in the 2003 Act providing that the requirement that an individual make a declaration that a return or self-certificate is correct and complete (see generally paragraph 1(1)(c) of Schedule 10, and paragraph 2(1)(c) of Schedule 11, to that Act) is met if the declaration is signed by a person authorised to act on behalf of that individual by a power of attorney in writing and signed by the individual.

Paragraph 7 of the Schedule amends section 107 of the 2003 Act so as to provide that Part 4 of that Act binds the Crown, subject to the provisions of the section.

Paragraph 8 of the Schedule substitutes section 120 of the 2003 Act, inserts a new Schedule 17A in that Act and makes certain other consequential and related amendments. The new Schedule 17A contains further provisions relating to leases.

Paragraph 9 of the Schedule amends section 125 of the 2003 Act so as to ensure that duplicates or counterparts of instruments other than those relating to stock or marketable securities are not chargeable with fixed duty of £5.

Paragraph 10 of the Schedule amends Schedule 19 to the 2003 Act so as to provide for the application of transitional provisions in relation to certain contracts.

Paragraph 11 of the Schedule inserts a new paragraph 7A in Schedule 19 to the 2003 Act, and amends paragraph 8 of that Schedule, so that, if any stamp duty land tax chargeable on a transaction is paid, payment of any stamp duty chargeable on a relevant contract or agreement for lease is not required.