

## SCHEDULE 15

(as introduced by section 30(1))

### RELIEF FOR CERTAIN TRANSACTIONS RELATING TO SOCIAL HOUSING

#### PART 1

##### INTRODUCTORY

###### *Overview*

- 1 (1) This Schedule makes provision about reliefs available for certain transactions relating to social housing.
- (2) This Schedule is arranged as follows—
  - (a) Part 2 makes provision about relief available for right to buy transactions,
  - (b) Part 3 makes provision about the tax chargeable and relief available where a shared ownership lease or a rent to shared ownership lease transaction is entered into,
  - (c) Part 4 makes provision about the tax chargeable and relief available where a shared ownership trust is declared and where a rent to shared ownership trust scheme is entered into,
  - (d) Part 5 makes provision about relief available for a rent to mortgage transaction, and
  - (e) Part 6 provides relief for certain acquisitions by registered social landlords.

#### PART 2

##### RIGHT TO BUY RELIEF

###### *Relief for right to buy transaction*

- 2 (1) In the case of a right to buy transaction—
  - (a) section 19(1) (contingent consideration to be included in chargeable consideration on assumption that contingency will occur) does not apply, and
  - (b) any consideration that would be payable only if a contingency were to occur, or that is payable only because a contingency has occurred, does not count as chargeable consideration.
- (2) A “right to buy transaction” means—
  - (a) the sale of a dwelling at a discount, or the grant of a lease of a dwelling at a discount, by a relevant public sector body, or
  - (b) the sale of a dwelling, or the grant of a lease of a dwelling, in pursuance of the preserved right to buy.
- (3) The following are relevant public sector bodies for the purposes of this paragraph—
  - (a) a Minister of the Crown;
  - (b) the Welsh Ministers;
  - (c) a local housing authority within the meaning given by section 1 of the [Housing Act 1985 \(c. 68\)](#);
  - (d) a registered social landlord;

- (e) a housing action trust established under Part 3 of the [Housing Act 1988 \(c. 50\)](#);
  - (f) a local policing body within the meaning of section 101(1) of the [Police Act 1996 \(c. 16\)](#);
  - (g) a person specified for the purposes of this paragraph by the Welsh Ministers by regulations.
- (4) For the purposes of sub-paragraph (2)(b), the sale of a dwelling, or the grant of a lease of a dwelling, is made in pursuance of the preserved right to buy if—
- (a) the seller is a person against whom the right to buy under Part 5 of the [Housing Act 1985 \(c. 68\)](#) is exercisable by virtue of section 171A of that Act,
  - (b) the buyer is the qualifying person for the purposes of the preserved right to buy, and
  - (c) the dwelling is the qualifying dwelling-house in relation to the buyer.
- (5) A grant by the Welsh Ministers under section 20 or 21 of the [Housing Act 1996 \(c. 52\)](#) (purchase grants in respect of disposals at a discount by registered social landlords) does not count as part of the chargeable consideration for a right to buy transaction in relation to which the seller is a registered social landlord or private registered provider of social housing.
- (6) In this paragraph—
- “qualifying dwelling-house” (“*tŷ annedd*” *cymwys*”) and “qualifying person” (“*person cymwys*”) have the meaning given by section 171B of the [Housing Act 1985 \(c. 68\)](#);
  - “registered social landlord” (“*landlord cymdeithasol cofrestredig*”) means a body registered as a social landlord in a register maintained under section 1(1) of the [Housing Act 1996 \(c. 52\)](#).

### PART 3

#### SHARED OWNERSHIP LEASES

##### *Shared ownership lease: election for market value treatment*

- 3 (1) This paragraph applies where—
- (a) a lease is granted—
    - (i) by a qualifying body, or
    - (ii) in pursuance of the preserved right to buy,
  - (b) the conditions in sub-paragraph (2) are met, and
  - (c) the buyer elects for tax to be charged in accordance with this paragraph.
- (2) The conditions are—
- (a) that the lease must be of a dwelling;
  - (b) that the lease must give the tenant exclusive use of the dwelling;
  - (c) that the lease must provide for the tenant to acquire the reversion;
  - (d) that the lease must be granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
    - (i) the market value of the dwelling, or
    - (ii) a sum calculated by reference to that value;

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*Status: This is the original version (as it was originally enacted).*

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- (e) that the lease must contain a statement of—
  - (i) the market value of the dwelling, or
  - (ii) the sum calculated by reference to that value,  
by reference to which the premium is calculated.
- (3) An election for tax to be charged under this paragraph—
  - (a) must be included in the return made in respect of the grant of the lease (or in an amendment to that return), and
  - (b) is irrevocable, so that the return may not be amended so as to withdraw the election.
- (4) Where this paragraph applies the chargeable consideration for the grant of the lease is taken to be the amount stated in the lease in accordance with sub-paragraph (2)(e)(i) or (ii).
- (5) Where this paragraph applies no account is taken for the purposes of land transaction tax of the rent mentioned in sub-paragraph (2)(d).
- (6) Section 70 (meaning of market value) does not apply to this paragraph.

*Shared ownership lease: transfer of reversion where election made for market value treatment*

- 4 The transfer of the reversion to the tenant under the terms of a lease to which paragraph 3 applies (shared ownership lease: election for market value treatment) is relieved from tax if—
- (a) an election was made under paragraph 3, and
  - (b) any tax chargeable in respect of the grant of the lease has been paid.

*Shared ownership lease: election for market value treatment of premium where staircasing allowed*

- 5 (1) This paragraph applies where—
- (a) a lease is granted—
    - (i) by a qualifying body, or
    - (ii) in pursuance of the preserved right to buy,
  - (b) the conditions in sub-paragraph (2) are met, and
  - (c) the buyer elects for tax to be charged in accordance with this paragraph.
- (2) The conditions are—
- (a) that the lease must be of a dwelling;
  - (b) that the lease must give the tenant exclusive use of the dwelling;
  - (c) that the lease must provide that the tenant may, on the payment of a sum, require the terms of the lease to be varied so that the rent payable under it is reduced;
  - (d) that the lease must be granted partly in consideration of rent and partly in consideration of a premium calculated by reference to—
    - (i) the premium obtainable on the open market for the grant of a lease containing the same terms as the lease but with the substitution of the minimum rent for the rent payable under the lease, or
    - (ii) a sum calculated by reference to that premium;
  - (e) that the lease must contain a statement of the minimum rent and of—

- (i) the premium obtainable on the open market, or
  - (ii) the sum calculated by reference to that premium,  
by reference to which the premium is calculated.
- (3) An election for tax to be charged in accordance with this paragraph—
- (a) must be included in the return made in respect of the grant of the lease (or in an amendment to that return), and
  - (b) is irrevocable, so that the return may not be amended so as to withdraw the election.
- (4) Where an election is made under this paragraph the chargeable consideration for the grant other than rent is taken to be the amount stated in the lease in accordance with sub-paragraph (2)(e)(i) or (ii).
- (5) In this paragraph, the “minimum rent” means the lowest rent which could become payable under the lease if it were varied as mentioned in sub-paragraph (2)(c) at the date when the lease is granted.

*Shared ownership lease: staircasing transactions*

- 6 (1) This paragraph applies where under a shared ownership lease—
- (a) the tenant has the right, on the payment of a sum, to require the terms of the lease to be varied so that the rent payable under it is reduced, and
  - (b) by exercising that right the tenant acquires an interest, additional to one already held, calculated by reference to the market value of the dwelling and expressed as a percentage of that dwelling or its value (a “share of the dwelling”).
- (2) Where this paragraph applies, the acquisition is relieved from tax if—
- (a) an election was made under paragraph 3 (shared ownership lease: election for market value treatment) or paragraph 5 (shared ownership lease: election where staircasing allowed) and any tax chargeable in respect of the grant of the lease has been paid, or
  - (b) immediately after the acquisition the total share of the dwelling held by the tenant does not exceed 80%.
- (3) Section 70 (meaning of market value) does not apply in relation to the references in this paragraph to the market value of the dwelling.

*Shared ownership lease: grant not linked with staircasing transactions etc.*

- 7 For the purpose of determining the amount of tax chargeable on the grant of a shared ownership lease of a dwelling, the grant is to be treated as if it is not linked to—
- (a) any acquisition of an interest in the dwelling to which paragraph 6 applies,  
or
  - (b) a transfer of the reversion to the tenant under the terms of the lease.

*Rent to shared ownership lease: charge to tax*

- 8 (1) The chargeable consideration for transactions forming part of a rent to shared ownership lease scheme is determined in accordance with this paragraph.

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- (2) A “rent to shared ownership lease scheme” means a scheme or arrangement under which a qualifying body—
  - (a) grants an occupation contract of a dwelling to a person (“the tenant”) or persons (“the tenants”), and
  - (b) subsequently grants a shared ownership lease of the dwelling or another dwelling to the tenant or one or more of the tenants.
- (3) The following transactions are to be treated as if they were not linked to each other—
  - (a) the grant of the occupation contract;
  - (b) the grant of the shared ownership lease;
  - (c) any other land transaction between the qualifying body and the tenant, or any of the tenants, entered into as part of the scheme.
- (4) For the purposes of determining the effective date of the grant of the shared ownership lease, the possession of the dwelling by the tenant or tenants under the occupation contract is to be disregarded.
- (5) In this paragraph, “occupation contract” has the meaning given by Part 2 of the [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#).

#### *Shared ownership leases: interpretation*

- 9 (1) For the purposes of paragraphs 6, 7 and 8, a “shared ownership lease” means a lease granted—
  - (a) by a qualifying body, or
  - (b) in pursuance of the preserved right to buy,in relation to which the conditions in paragraph 3(2) or 5(2) are met.
- (2) Sub-paragraphs (3) and (4) apply to paragraphs 3 to 8.
- (3) A “qualifying body” means—
  - (a) a local housing authority within the meaning given by section 1 of the [Housing Act 1985 \(c. 68\)](#);
  - (b) a housing association within the meaning given by the [Housing Associations Act 1985 \(c. 69\)](#);
  - (c) a housing action trust established under Part 3 of the [Housing Act 1988 \(c. 50\)](#).
- (4) A lease is granted in pursuance of the preserved right to buy if—
  - (a) the seller is a person against whom the right to buy under Part 5 of the [Housing Act 1985 \(c. 68\)](#) is exercisable by virtue of section 171A of that Act (preservation of right to buy on disposal to private sector landlord),
  - (b) the tenant is the qualifying person for the purposes of the preserved right to buy, and
  - (c) the lease is of a dwelling that is the qualifying dwelling-house in relation to the buyer.
- (5) In sub-paragraph (4), “qualifying person” (“*person cymwys*”) and “qualifying dwelling-house” (“*ty annedd cymwys*”) have the meaning given by section 171B of the [Housing Act 1985 \(c. 68\)](#).

## PART 4

### SHARED OWNERSHIP TRUSTS

*Shared ownership trusts: meaning of shared ownership trust and other key terms*

- 10 (1) This paragraph applies to paragraphs 11 to 17.
- (2) A “shared ownership trust” means a trust of land within the meaning of section 1 of the [Trusts of Land and Appointment of Trustees Act 1996 \(c. 47\)](#) which satisfies the following conditions.
- (3) Condition 1 is that the trust property is—
- (a) a dwelling, and
  - (b) in Wales.
- (4) Condition 2 is that one of the beneficiaries (“the social landlord”) is a qualifying body.
- (5) Condition 3 is that the terms of the trust—
- (a) provide for one or more of the individual beneficiaries (“the buyer”) to have exclusive use of the trust property as the only or main residence of the buyer,
  - (b) require the buyer to make an initial payment to the social landlord (“the initial capital”),
  - (c) require the buyer to make additional payments to the social landlord by way of compensation under section 13(6)(a) of the [Trusts of Land and Appointment of Trustees Act 1996](#) (“the rent-equivalent payments”),
  - (d) enable the buyer to make other additional payments to the social landlord (“equity-acquisition payments”),
  - (e) determine the initial beneficial interests of the social landlord and of the buyer by reference to which the initial capital was calculated,
  - (f) specify a sum, equating or relating to the market value of the dwelling, by reference to which the initial capital was calculated, and
  - (g) provide for the buyer’s beneficial interest in the trust property to increase, and the social landlord’s to diminish or to be extinguished as equity-acquisition payments are made.
- (6) Section 70 (meaning of market value) does not apply to this paragraph.
- (7) In Condition 1, “dwelling” includes land which is to be used for the construction of a dwelling.
- (8) In Condition 2, “qualifying body” means—
- (a) a local housing authority within the meaning given by section 1 of the [Housing Act 1985 \(c. 68\)](#);
  - (b) a housing association within the meaning given by the [Housing Associations Act 1985 \(c. 69\)](#);
  - (c) a housing action trust established under Part 3 of the [Housing Act 1988 \(c. 50\)](#).

*Shared ownership trust: the buyer*

- 11 For the purposes of this Act, the person or persons identified as the buyer in accordance with paragraph 10, and not the social landlord or any other beneficiary is (or are) to be treated as the buyers of the trust property.

*Shared ownership trust: election for market value treatment*

- 12 (1) This paragraph applies where—
- (a) a shared ownership trust is declared, and
  - (b) the buyer makes an election under this paragraph.
- (2) An election for tax to be charged in accordance with this paragraph—
- (a) must be included in the return made in respect of the grant of the lease (or in an amendment to that return), and
  - (b) is irrevocable so that the return may not be amended so as to withdraw the election.
- (3) Where this paragraph applies—
- (a) the chargeable consideration for the declaration of the shared ownership trust is taken to be the amount stated in accordance with paragraph 10(5)(f), and
  - (b) no account is to be taken of the rent-equivalent payments.

*Shared ownership trust transfer upon termination*

- 13 The transfer to the buyer of an interest in the trust property upon the termination of the trust is relieved from tax if—
- (a) an election has been made under paragraph 12, and
  - (b) any tax chargeable in respect of the declaration of the shared ownership trust has been paid.

*Shared ownership trust: staircasing transactions*

- 14 (1) An equity-acquisition payment under a shared ownership trust, and the consequent increase in the buyer's beneficial interest is to be relieved from tax if—
- (a) an election has been made for relief under paragraph 12, and
  - (b) any tax chargeable in respect of the declaration of the trust has been paid.
- (2) An equity-acquisition payment under a shared ownership trust, and the consequent increase in the buyer's beneficial interest is also to be relieved from tax if following the increase the buyer's beneficial interest does not exceed 80% of the the total beneficial interest in the trust property.

*Shared ownership trust: treatment of additional payments where no election made*

- 15 Where no election has been made under paragraph 12 in respect of a shared ownership trust—
- (a) the initial capital is to be treated as chargeable consideration other than rent, and
  - (b) any rent-equivalent payment by the buyer is to be treated as a payment of rent.

*Shared ownership trust: declaration not linked with staircasing etc.*

- 16 For the purposes of determining the amount of tax chargeable on the declaration of a shared ownership trust, the declaration is to be treated as if it were not linked to—
- (a) any equity-acquisition payment under the trust or any consequent increase in the buyer’s beneficial interest in the trust property, or
  - (b) a transfer to the buyer of an interest in the trust property on the termination of the trust.

*Rent to shared ownership trust: charge to tax*

- 17 (1) The chargeable consideration for transactions forming part of a rent to shared ownership trust scheme is determined in accordance with this paragraph.
- (2) A “rent to shared ownership trust scheme” means a scheme or arrangement under which —
- (a) a qualifying body grants an occupation contract of a dwelling to a person (“the tenant”) or persons (“the tenants”), and
  - (b) the tenant, or one or more of the tenants, subsequently becomes the buyer under a shared ownership trust of the dwelling, or another dwelling, under which the qualifying body is the social landlord.
- (3) The following transactions are to be treated as if they were not linked to each other—
- (a) the grant of the occupation contract,
  - (b) the declaration of the shared ownership trust, and
  - (c) any other land transaction between the qualifying body and the tenant, or any of the tenants, entered into as part of the scheme.
- (4) In this paragraph “occupation contract” has the meaning given by Part 2 of the [Renting Homes \(Wales\) Act 2016 \(anaw 1\)](#).

## PART 5

### RENT TO MORTGAGE

*Rent to mortgage: chargeable consideration*

- 18 (1) The chargeable consideration for a rent to mortgage transaction is determined in accordance with this paragraph.
- (2) A rent to mortgage transaction means—
- (a) the transfer of a dwelling to a person, or
  - (b) grant of a lease of a dwelling to a person,
- pursuant to the exercise by that person of the right to acquire on rent to mortgage terms under Part 5 of the [Housing Act 1985 \(c. 68\)](#).
- (3) The chargeable consideration for a rent to mortgage transaction is equal to the price that would be payable by virtue of section 126 of the [Housing Act 1985 \(c. 68\)](#), for—
- (a) a transfer of the dwelling to the person where the rent to mortgage transaction is a transfer, or
  - (b) the grant of a lease of the dwelling to the person where the rent to mortgage transaction is the grant of a lease,

if the buyer was exercising the right to buy under Part 5 of that Act.

## PART 6

### RELIEF FOR CERTAIN ACQUISITIONS BY REGISTERED SOCIAL LANDLORDS

#### *Relief for certain acquisitions by registered social landlords*

- 19 (1) A land transaction under which the buyer is a registered social landlord is relieved from tax if—
- (a) the registered social landlord is controlled by its tenants,
  - (b) the seller is a qualifying body, or
  - (c) the transaction is funded with the assistance of a public subsidy.
- (2) The reference in sub-paragraph (1)(a) to a registered social landlord “controlled by its tenants” is to a registered social landlord the majority of whose board members are tenants occupying properties owned or managed by it.
- (3) In this paragraph—
- “board member” (“*aelod o'r bwrdd*”), in relation to a registered social landlord, means—
    - (a) if it is a company, a director of the company,
    - (b) if it is a body corporate whose affairs are managed by its members, a member,
    - (c) if it is body of trustees, a trustee, or
    - (d) if it is not within paragraphs (a) to (c), a member of the committee of management or other body to which is entrusted the direction of the affairs of the registered social landlord;
  - “public subsidy” (“*cymhorthdal cyhoeddus*”) means any grant or other financial assistance—
    - (a) made or given by way of a distribution pursuant to section 25 of the [National Lottery etc. Act 1993 \(c. 39\)](#) (application of money by distributing bodies),
    - (b) made by the Welsh Ministers under section 18 of the [Housing Act 1996 \(c. 52\)](#) (social housing grants), or
    - (c) under section 126 of the [Housing Grants, Construction and Regeneration Act 1996 \(c. 53\)](#) (financial assistance for regeneration and development);
  - “qualifying body” (“*corff cymwys*”) means any of the following—
    - (a) a registered social landlord;
    - (b) a housing action trust established under Part 3 of the [Housing Act 1988 \(c. 50\)](#);
    - (c) a county or county borough council constituted under section 21 of the [Local Government Act 1972 \(c. 70\)](#);
    - (d) a county or district council constituted under section 2 of that Act;
    - (e) the Welsh Ministers.