

SCHEDULE 6

LEASES

PART 2

DURATION OF LEASE AND TREATMENT OF OVERLAPPING LEASES

Leases for an indefinite term

- 5 (1) For the purposes of this Act (except section 46 (notifiable transactions: exceptions))
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- (a) a lease for an indefinite term is treated in the first instance as if it were a lease for a fixed term of a year;
 - (b) if the lease continues after the end of the term resulting from the application of paragraph (a), it is treated as if it were a lease for a fixed term of 2 years;
 - (c) if the lease continues after the end of the term resulting from the application of paragraph (b), it is treated as if it were a lease for a fixed term of 3 years, and so on.
- (2) But where—
- (a) a lease is treated, by virtue of sub-paragraph (1) as if it were a lease for a fixed term of 2 or more years, and
 - (b) it actually terminates before the end of that fixed term,
- the lease is to be treated as continuing under sub-paragraph (1) only until it terminates; and sub-paragraph (5) applies accordingly.
- (3) For the purposes of section 46 (notifiable transactions: exceptions) a lease for an indefinite term is treated as granted for a period of less than 7 years.
- (4) For the purposes of this Act, no account is to be taken of any other enactment deeming a lease for an indefinite term to be a lease for a different term.
- (5) Where—
- (a) a lease is treated, by virtue of sub-paragraph (1), as being for a fixed term,
 - (b) the lease continues after the end of that term and accordingly is treated as being for a longer fixed term, and
 - (c) as a result of the lease continuing, additional tax is payable in respect of a land transaction or tax is payable in respect of a land transaction where none was payable,
- the buyer must make a return or further return (including a self-assessment) in respect of the land transaction before the end of the period of 30 days beginning with the day after the end of the longer fixed term for which the lease is treated as continuing.
- (6) Where—
- (a) a lease is treated, by virtue of sub-paragraph (1), as being for a fixed term of one year,
 - (b) the lease actually terminates before the end of that fixed term, and
 - (c) had the lease been granted for a fixed term ending on the date on which it actually terminates, less tax would have been chargeable than the amount assessed as such in the return made in respect of the grant of the lease,

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

the buyer may, within the period allowed for amendment of the return, amend it accordingly (for provision as to amendment of returns, see section 41 of TCMA).