

# LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013

---

## EXPLANATORY NOTES

### THE ACT

#### Part 2 – Key Concepts

#### *Chapter 2 of Part 2 – Provision about Particular Transactions*

#### Interpretation

#### *Section 14 – Meaning of substantial performance*

44. Section 14 defines “substantial performance”. This is where either the buyer takes possession of the whole or substantially the whole of the subject-matter of the transaction, or where “a substantial amount of the consideration” is paid or provided or where there is an assignation, subsale or other transaction whereby a third party is entitled to call for a conveyance to the third party. Whichever event happens first will trigger the charge to tax even though the contract has not been completed by, say, a conveyance.
45. One of the ways in which a buyer can take possession is if he or she receives or is entitled to receive rent in respect of the property. A buyer is treated as taking possession whether or not the right to possession is documented in the contract or by a licence.
46. Subsection (3) sets out when a substantial amount of the consideration is paid or provided:
- if none of the consideration is rent, it is when the whole or substantially the whole of the consideration passes,
  - if the only consideration is rent, it is when the first payment of rent is made,
  - if the consideration is partly rent and partly other consideration, it is when the whole or substantially the whole of the consideration passes, or when the first payment of rent is made.
47. See also paragraphs 6(a) and 11(a) of schedule 7 in relation to alternative property finance relief. Defined terms used in section 14:

|                     |            |
|---------------------|------------|
| “buyer”             | section 7  |
| “connected persons” | section 58 |
| “subject-matter”    | section 61 |